Mountmorres

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AN

Hiſtorical Diſſertation

UPON THE

ORIGIN, SUSPENSION, AND REVIVAL,

OF THE

JUDICATURE AND INDEPENDENCY

OF THE

IRISH PARLIAMENT.

With a NARRATIVE of the

TRANSACTIONS IN 1719,

RELATIVE TO THE CELEBRATED

DECLARATORY LAW;

Extracted from the Papers of the late

EARL OF EGMONT:

AND A COMMENT ON HIS LORDSHIP'S OPINION, UPON THE LEGISLATIVE UNION OF THESE KINGDOMS.

To which is annexed

THE STANDING ORDERS

OF THE

HOUSE OF LORDS,

Tranſcribed from a Copy printed by Authority the 11th of Feb. 1790.

ACCURATELY COMPARED WITH THE LEADING CASES; THE DATES AND CAUSES OF THEIR ORIGIN, CONSTRUCTION, AND APPLICATION.

Extracted from the

JOURNALS OF PARLIAMENT,

IN

GREAT BRITAIN AND IRELAND.

BY

HERVEY, VISCOUNT MOUNTMORRES, F.R.S. & M.R.I.A.

Poſteris an ſit aliqua cura noſtri, neſcio. Nos certe meremur ut ſit aliqua; non dico ingenio, id enim ſuperbum; ſed ſtudio, ſed labore, ſed reverentiâ poſterum. PLIN. EPIST.

LONDON:

PRINTED FOR J. DEBRETT, OPPOSITE BURLINGTON-HOUSE, PICCADILLY.

1795.

TO THE MOST NOBLE

CHARLES,

MARQUIS CORNWALLIS, K.G.

&c. &c. &c.

MY LORD,

IN conformity to your permiſſion, I have the honour to addreſs this Hiſtorical Diſſertation to your Lordſhip; deſirous of uſhering it into public notice, under the protection of an invaluable character.

To whom, indeed, with ſo much propriety, could any work relative to Ireland be addreſſed, as to the deſcendant, and repreſentative in one line, of the moſt conſummate and moſt popular ſtateſman which that kingdom has produced.

Were I diſpoſed, my Lord, to treſpaſs upon that merit which ſhuns oſtentation, or to extend this dedication; an exact parallel might eaſily be drawn between the conduct of the firſt Duke of Ormond, in the government of Ireland, and the adminiſtration of the late Governor General of the Eaſt Indies.

Both, animated by the ſame benevolent ambition, both, guided by ſimilar principles of wiſe precaution, and ſagacious ſuperintendance: but the Viceroy was fatally traverſed by envy, and croſſed by court intrigue; while his latter days were embittered by neglect: and he did not ſee the fair fruits of his judicious conduct, in the proſperity of Ireland.

Neither was he happy, in leaving that country; like the eaſtern empire, in its preſent ſtate; generally tranquil, and progreſſively proſperous: nor was he poſſeſſed, at one and the ſame time, of the juſt confidence and merited favour of his Sovereign; combined with the general ſuffrage of his country.

I have the honour to be,

Your Lordſhip's moſt obedient

Humble ſervant,

MOUNTMORRES.

London,
Auguſt 1795.

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INTRO-

INTRODUCTION.

THOUGH the apparent deſign of this compilation is to trace the origin, ſuſpenſion, and revival of the juriſdiction of the Iriſh Parliament; a ſubject however intereſting it might have been in 1782, now of leſs moment, becauſe it is no longer a queſtion of novelty: yet, it will be found to lead to a diſſertation of the greateſt importance, that naturally ſprings from the ſources of information, of which the author has been poſſeſſed; viz. the legiſlative incorporation of Great Britain and Ireland.

In the "Genealogical Hiſtory of the Houſe of Ivery many important materials will be found relative to the general hiſtory of Ireland," particularly a long and minute detail of the great caſe of Sherlock and Annesly, of the merits, grounds, precedents, and repreſentations that guided the conduct of the Iriſh Parliament in that momentous queſtion, that produced the famous declaratory law in 1719, and annihilated the independence of the Iriſh Parliament.

The repeal of that law in 1781-2, and the act which finally renounced the deſign of ever binding Ireland again by a Britiſh act of Parliament, were the fruits of a long and arduous conteſt; where patriotiſm was at laſt triumphant, where the efforts of a virtuous oppoſition were crowned with complete

ſucceſs. The hiſtory of thoſe tranſactions will form a brilliant page in the annals of mankind.

As one who took an active part in that arduous conteſt; the author cannot reflect upon paſt ſcenes without delight; nor upon that ſtruggle, without ſatisfaction, not like other conteſts which recent periods have produced, a mere ſkirmiſh for place, power, and emolument; but a ſyſtematic oppoſition to a deſpotic influence, grounded upon the pureſt motives of genuine patriotiſm; where the parties purſued their own, through the intereſt and welfare of the community.

In the hiſtory of the houſe of Ivery, the late Earl of Egmont has incidentally given his opinion in favour of a legiſlative incorporation of theſe kingdoms—which lead the author to a comment upon that ſubject, and an hiſtorical detail of thoſe precedents where it has actually obtained; of thoſe publications in which its merits have been diſcuſſed; and of thoſe periods where it has become the object of Parliamentary contemplation.

This part of the ſubject will be, the author flatters himſelf, both novel and intereſting: not that he wiſhes to ſtep beyond the province of an hiſtorian, or to give any opinion as a politician, either for, or againſt ſuch an incorporation, which muſt depend hereafter upon the general temper and diſpoſition of the inhabitants of theſe kingdoms, when more light may be thrown upon this ſubject, better information than he can preſume to poſſeſs, if ever that great queſtion ſhould be in actual contemplation.

The materials gained from the hiſtory of the houſe of Ivery muſt be novel; becauſe derived from a ſource but little known, as all books of that ſort are ſeldom in general eſtimation; perhaps thoſe who claim the moſt ancient deſcent from noble pedigrees, ſhould rather ground their proofs upon general hiſtories and the narratives of annaliſts and hiſtorians who enter into general ſubjects

and

and deſcriptions; leaving it to their readers, to form their own opinions from analogies and inferences drawn from ſuch ſources, than from their own details and aſſertions.*

The general plan of this work was traced from a manuſcript of the Lord Chief Juſtice Hale, not yet publiſhed, but printed by one of our moſt diſtinguiſhed legal luminaries, to whom ſcience, juriſprudence, and the learned world are ſo much indebted;† an humble imitation of ſuch a maſterpiece: but, models of perfection ſhould be always in our view, though ſeldom within our reach; however ſhort the imitation may fall of the original, the object of our contemplation.

In the diſſertation of that great and good man, his plan for trying cauſes by a ſelect committee of five combined Peers with the judges, which appears from the Journals of the Lords of England, to have been the ancient mode of judicature; who were known by the name of *triers of petitions* appointed at the commencement of a ſeſſion of Parliament; deſerves particular attention.

The author has often lamented that he was reſtrained by motives of delicacy, from mentioning this particular in 1783 upon the revival of the appellant juriſdiction; for, though he could not preſume that he had weight to propoſe ſuch a plan with any plauſible effect: yet ſuch propoſitions originating from the humbleſt ſources, have often been carried into complete effect, by thoſe who are duly qualified to propoſe ſuch arrangements and regulations to public aſſemblies.

Such a regulation grounded upon ſuch antiquity, ſanctioned by ſuch authority, and recommended by

* The author has purſued this plan in a ſhort account of his own family; that will probably appear next year, in a very intereſting and valuable compilation of Mr. Debrett's *relative to* the Peerages of the *three* kingdoms.

† Mr. Hargrave.

ſuch a name, might have prevented a meaſure of a very diſagreeable complexion, which neceſſity rendered in 1784 not only expedient, but neceſſary and unavoidable.*

The ſtanding orders of the Peers of Ireland are annexed to this compilation—they are printed from a copy publiſhed in 1790 by authority, as they were claſſed and arranged by their Lordſhips in 1783 upon the revival of the appellant juriſdiction.

The leading caſes from whence thoſe orders were derived in both kingdoms, are added in the margin; and the number of the correſponding order, upon the roll of ſtanding orders in England is alſo annexed; ſo that they contain by the aid of ſome additional remarks the ſum and ſubſtance of the rules and orders of *two* great aſſemblies.

As the Engliſh orders have not yet been printed by authority, the author would not have annexed a compilation, framed originally for his own private uſe and information, as a member of the Iriſh Parliament, and deſigned for the inſpection only of a few particular friends; were he not apprized by ſome diſtinguiſhed members of a great and moſt reſpectable aſſembly, that no offence would be taken; and that as their Journals are now printed and publiſhed, any information that they contain may be freely uſed and by an induſtrious votary of conſtitutional ſcience, and Parliamentary INFORMATION.

* An act of Parliament paſſed in 1784, to ſuſpend the vote and take away the privileges and functions of a Lord of Parliament, from the Viſcount Strangford, for *tampering* with one of the parties in the great cauſe of the Earl of Ely.

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CHAP. I.

Of the Juriſdiction of the Iriſh Parliament---Hiſtorical Deduction of the Origin, Progreſs, Suſpenſion, and Renewal of the Appellant Juriſdiction of the Houſe of Lords of Ireland.

ALTHOUGH ſeveral Iriſh antiquarians aſſert that an inſtrument, or charter for holding Parliaments in Ireland, was tranſmitted by Henry the Second, ſoon after his memorable expedition in 1172, called the *Modus Tenendi Parliamentum*; yet no reliance is to be placed upon that aſſertion, ſince Sir Edward Coke, Sir John Davis, and the Lord Chancellor, Euſtace; either poſitively, or by implication, controvert that tradition.

According to Sir John Davis, in his ſpeech as Speaker of the Houſe of Commons of Ireland, in 1313, the moſt comprehenſive, perhaps, that ever was delivered; ſince it contains a ſhort account of

of every Iriſh Parliament ſummoned before that period:

The *firſt* Parliament regularly convened in Ireland, was in the declining years of Edward the Second, in conſequence of Edward Bruce's invaſion, in the ninth year of the reign of that unfortunate monarch.*

Before that period, according to Sir John Davis's opinion, Ireland was repreſented in the Engliſh Parliament; and this aſſertion is ſtill further confirmed by the teſtimony and authority of the Chancellor, Sir Maurice Euſtace, who in a ſpeech, as Speaker of the Houſe of Commons, on the twentieth of March, 1640, before the Earl of Strafford, after ſtating the fact, illuſtrates and proves it in this form:

"The time was when we were forced to attend "the Parliament of England, which no doubt was a "mighty and a heavy charge to this kingdom: yet "thus it was, for ſo you have it in the Parliament "Rolls in the Tower of London, and it is thus "recorded, the 8th of Edw. II. Dorſo Clauſo, M. 31.

"*Rex mandavit Ricardo de Burgo comitis Ultoniæ* "*& aliis nobilibus Hiberniæ, quod ſint apud Weſtmonaſ-* "*terium, in octavis Hilarii primi, ad tractandum cum* "*proceribus hujus regni, de ſtatu Hiberniæ.*"

It was perhaps not convened at ſtated periods in Ireland till ſome time afterwards; for, the Speaker, Euſtace, cites another example of a ſimilar import, in the fifth year of Edward the Third; and it was not till the tenth year of that Monarch, that a writ or charter was iſſued, recorded Rotulo Clauſo, 10 Edw. III.

De Parliamentis, ſingulis in annis; in terra Hiberniæ tenendis, & conſuetudinibus ibidem emendandis.

According to Davis, the laws made in England before the ninth year of Edward the Second, were

* Davis's Tracts, p. 299.—Lord Mountmorres's Hiſtory of the Iriſh Parliament, vol. i. p. 44.—Iriſh Commons Journals, vol. i. p. 212.

ſent

ſent to Ireland, and were promulgated under the great ſeal of the former kingdom.

" And thus, the ſtatutes of Merton and Marle-
" bridge were ſent over by King John, and Henry
" the Third; the ſeveral ſtatutes of Weſtminſter,
" and the ſtatutes of Glouceſter by King Edward
" the Firſt; and the ſtatutes of Lincoln and York
" by King Edward the Second: the ſtatutes of
" Weſtminſter the ſecond, and of York in their
" preambles, expreſsly mentioning the land of Ire-
" land," ſays Sir John Davis," " and they are now
" inrolled in the records thereof."

It is to be lamented that the records of Ireland have been till lately ſo ill preſerved—that there are no ſtatutes, and few parliamentary records preſerved from the ninth year of Edward the Second, till the reign of Henry the Sixth; conſequently that few lights can be thrown upon tranſactions antecedent to the former period; but it may be inferred from the foregoing great authorities, with a reaſonable approximation to truth;—that theſe kingdoms were anciently and originally repreſented by one legiſlature.

Touching the juriſdiction of Parliament: in early times, appeals were ſometimes made from the court of King's Bench in Ireland to the court of King's Bench in England; becauſe the King, who was the common judge of both nations, preſided in that court, and ſometimes the judges of England were conſulted, in certain difficult points of law, from a want of men fully inſtructed in the conſtitution of Ireland during its infancy: but ſtill there does not appear to be any pretence all that time; that this was done *de jure*, or that any appeal THEN lay to any court without the kingdom; till at length, in the reign of Edward the Third, the Engliſh began to aim at extending their juriſdiction, and pretended that the ancient appeals to the Kings in England, implied a ſuperiority in the Engliſh nation over the

Iriſh, arguing *à fortiori*, that if appeals were made to the inferior courts in England, they might of conſequence be made to the ſupreme court of all, the Britiſh Parliament; and under theſe pretences, it ſeems they had actually taken cognizance of ſome judicial matters relating to Ireland. Upon this a remonſtrance was made from the Commons of Ireland, in the twenty-ſixth of Edward the Third; and it is neceſſary to dwell upon and ſpecify the tranſaction, becauſe the judicature of the Lords of Ireland depended upon that charter.

The remonſtrance ſets forth, "That they had long "endured intolerable oppreſſion and injuſtice from "men of authority in this kingdom, who, abuſing "their power, diſpoſſeſſed them of their eſtates," and under pretence that there was no appeal to the Parliament of Ireland, ſupported themſelves with impunity in this violence, reducing multitudes to the greateſt poverty and extreme diſtreſs, unable, from the great charge and hazard in proſecuting their rights abroad, to carry their appeals to England; wherefore they beſought the King to remedy this abuſe, and maintain the privilege of their violated conſtitution. In conſequence of which the King, by an ordinance of the forty-ninth of his reign, decreed, "That whereas it appeared an intolerable griev-"ance, that his people of that nation ſhould be thus "oppreſſed, without a remedy, and as he was bound, "by the nature of his ſupreme office, to ſee juſtice "done to all his ſubjects, that for the future juſtice "ſhould be done to them according to the known "cuſtoms and laws of both kingdoms, and all ap-"peals and proceedings upon errors of judgment, in "the inferior courts of that realm, ſhould be made "and carried on in the Parliament of Ireland only.*"

If

* Prynne on the 4th Inſt. p. 286, 49th E. III. Edwardus Dei gratia, &c. ex parte nonnullorum fidelium noſtrorum terræ noſtræ Hiberniæ, &c.

Ordinamus,

If any thing was wanting to corroborate theſe ordinances and charters from the crown, it was ſupplied by a decree of Richard the Second, in the ſeventeenth year of his reign, when all the liberties and immunities of Ireland were again confirmed; among which, the judicature of the Iriſh Parliament was included.

It does not appear, that the judicature of the Iriſh Parliament was afterwards moleſted until the eighth of Henry the Sixth; but it is recorded by Mr. Prynne, in his animadverſions on the fourth inſtitute,* that at that time the prior of Lanthony in Wales, having brought an action againſt the Iriſh prior of Mullingar, for the arrear of an annuity, in the Common Pleas; judgment was given againſt the prior of Mullingar, who then brought a writ of error into the King's Bench of Ireland, where the judgment was affirmed. The prior of Mullingar appealed again to the Parliament of Ireland, which Parliament reverſed *both* the former judgments; whereupon the prior of Lanthony removed the cauſe into the King's Bench in England, but that court refuſed to be concerned in it, as having no power over what had paſſed in the Parliament of Ireland: after which the prior of Lanthony appealed in the eighth of Henry the Sixth, to the Parliament

Ordinamus, quod ad proſcentionem omnium et ſingulorum, qui conqueri coluerint; errores in recordis et proceſſibus coram aliquibus juſticiariis ſeu aliis miniſtris prædictis habitis, interveniſſe rotuli eorundem recordorum et proceſſuum in parliamentis noſtris in eadem terra tenendum, per juſticiarios, ſeu miniſtros, coram quibus recorda et proceſſus diligenter recitarentur et examinarentur, et errores, ſi quos in iiſdem inveneri contigerit debite corrigantur; et ideo vobis mandamus quod ordinationem prædictam in terra noſtra prædicta teneri; et partibus conquerentibus plenam et celerem juſtitiam fieri facias, in forma prædicta; quibuſcunque mandatis vobis aut aliis in terra prædicta ante hæc tempora in contrarium directis non obſtantibus. Ita quod aliquis materiam non habeat nobis pro defectu juſtitiæ ſuper caſibus prædictis, de cætero conquerendi.

Teſte Rege apud Weſtmonaſt. 30th of Aug.

* Prynne on the Fourth Inſtitute, ch. lxxvi. p. 313.

of England; but neither would they determine thereupon; thereby declaring, that they had no pretenſions to interfere in the judicature of Ireland.

This cuſtom of appeals being carried to England ſeems to have gained ſome ground at this time; for it became an object of the attention of the legiſlature; and by the thirty-ſecond of Henry VI. ch. iii. it is enacted, "that if any do appeal, in "hope to be ſent to England, the matter of appeal "ſhall be declared before the governor of this land "and the King's council; and, if the matter does "not touch the King's perſon, the ſaid governor "ſhall ſend the ſaid appeal to the King's Bench "there, to be determined, as if it were an appeal of "robbery; and, if the ſaid appeal be not found to "be true, the appellant ſhall pay to the appellee, "his damages, taxed by the inqueſt, and twenty "pounds, more-over one hundred ſhillings to "the King for his fine, ſaving the King's preroga-"tive."

This act would not be ſufficiently clear and explicit, were it not for the comment of the Lords of Ireland, in the year 1703; when they founded their reſolutions upon it; declaring thoſe, who appealed from the judgment of their Houſe and to a foreign juriſdiction, enemies to their country.

By an act of the ſeventh of Henry VIII. c. i. this matter was farther guarded, and proviſion was made againſt theſe appeals, in matters determinable, they were obliged to find ſurety in the Chancery in Ireland, and if the cauſe of appeal was found not to be true, to ſatisfy the defendant for his coſts, damages, and expenſes.

Theſe acts ſeem to accord with the ſtatute of abſentees,* which made a forfeiture of land the conſequence of non-reſidence in Ireland: that they might have no cauſe for abſence, that the people might have every advantage in the country; and that juſtice might be domeſticated in their native land.

The

* The 28th of Henry the VIIIth. c. iii. Iriſh Stat. v. i. p. 84.

The Engliſh lawyers themſelves declared in favour of thoſe rights, as appears in the year book of the ſecond of Richard III. when a queſtion ariſing about certain bales of wool, exported by a merchant of Waterford, which the Treaſury of Calais had ſeized in that port; the judges of England occaſionally pronounced that Ireland was not bound by Engliſh ſtatutes, becauſe they had no repreſentatives in the Engliſh Parliament; but that they had a Parliament of their own, in which they made and amended laws, and that they had all manner of *courts*, with the *ſame* prerogatives as in England.*

From this time forward, the judicature of the Iriſh Parliament ſtood unmoleſted, till the middle of the reign of the ſecond Charles: in which interval only one inſtance occurs in the Journals of the Lords of England, for an application of this ſort, and the entry which was made, and the difficulty of enforcing their order, plainly ſhews that it was a novel, unprecedented mode of proceeding: the entry is as follows:

24th May, 1621. *Engliſh Lords Journal*, vol. iii. p. 422.

"Whereas one Stafford, an Iriſhman, has brought "his writ of error in this Houſe, about certain "lands in the county of Wexford, in Ireland: the "Lord Chief Juſtice moved to know the pleaſure "of this Houſe, whether the writ, in that caſe to "be awarded, ſhould be directed to the ſheriff of "Middleſex, or to the ſheriff of the county in "Ireland, where the lands lay: and it was ordered, "that the writ, in this caſe to be awarded, ſhall be "directed to the Chief Juſtice of the King's Bench "in Ireland, to order the ſheriff of the county of "Wexford, in Ireland, to warn the party defendant "to appear before this Houſe on a day appointed to "hear errors."

The rules for proceedings in appeals and writs of error appear in the Journals, in 1644 and 1662, and

* Year Book of the Second of Richard III. fol. 11 and 12.

a regular courſe of near forty applications from the former period till the year 1719.

During the long interval of Parliament, from 1666 to 1692, for twenty-ſix years, there were ſix precedents of appeals from Ireland to the Lords of England.

The firſt appeal that occurs during that period, in the Journals of the Lords of England, was, in a caſe between Sir Robert Nugent and Colonel Talbot, the famous Duke of Tyrconnel; it was in the year 1670, and it may be expedient to ſay a word upon the particulars of that caſe.

Colonel Talbot had been an active ſolicitor for the Roman Catholicks in the court of claims, and had obtained a bond of 4000l. from Sir Robert Nugent, provided he procured him his eſtate in that court; but, his own innocence being clear, he obtained it without the intervention of Colonel Talbot, who, notwithſtanding, ſued him upon the penalty, in the court of Chancery in Ireland; from their determination, Nugent appealed to the Lords of England, but their conduct ſhews, that they were not deſirous of interfering in the juriſdiction of Ireland; for the cauſe, however flagrant, was diſmiſſed, and a bill of review was ordered to be had in the Chancery of Ireland.

As was before obſerved, in the long interval of twenty-ſix years, in the ſeſſions of the Iriſh Parliament, there are only ſix precedents, which occur, of appeals from Ireland to the Houſe of Lords of England, till the two juriſdictions interfered in the famous caſe of the Biſhop of Derry, in the latter days of King William. Till this period there was probably a concurrent juriſdiction introduced by neceſſity in the long interval of the Parliament of Ireland from 1666 to 1692; and parties might appeal to either Houſe of Lords, in England or in Ireland; but not from one to the other.

The

The validity of appeals to the Houſe of Lords of Ireland was never queſtioned till the year 1698; but, previous to that period, an appeal having been brought before the Houſe of Lords of England, by the governor and ſociety of the Londonderry plantation, againſt a judgment which had been given by the Iriſh peers, in favour of the Biſhop of Derry, though no objection had been previouſly pleaded, by the parties, to the Iriſh juriſdiction, the Houſe of Lords of England thought proper to declare, that the proceedings before that Houſe was before an incompetent judicature, and that the Iriſh Chancery ought to proceed as if no ſuch appeal had been made to the Lords of Ireland; a compoſition, however, taking place between the parties, the Iriſh peers were not under a neceſſity of enforcing their own order: the reaſonings of the council upon the Iriſh juriſdiction are reported in the caſe of the Biſhop of Derry, in Sir Bartholomew Shower's Reports, though the argument in its favour ſeems to be imperfect and mutilated.

As this caſe of the Biſhop of Derry, in 1698, was the firſt in which the juriſdictive power of the Houſe of Lords of Ireland was called in queſtion, it muſt be intereſting and curious to ſee upon what plauſible plea that opinion was founded.

It was, perhaps, one of the moſt extraordinary crotchets that legal ſubtilty ever deviſed.

The reaſoning of the council was, that the Iriſh Parliament was debarred of their juriſdictive right by Poyning's law, and that, as the conſtitution in Ireland was inverted, and no legiſlative matter could be taken up there, unleſs it originated from the crown, before Parliament was convened, by that ſtatute; the ſame rule was to take place in other matters, in judicial caſes alſo.

This mode of reaſoning is ſo whimſical and extraordinary, that it is neceſſary to juſtify this opinion by a curious paper; it is an extract of the printed caſe,

caſe, which was drawn up by that great lawyer, Sir B. Shower, in the caſe of the Biſhop of Derry, and which lead the Houſe of Lords of England, in receiving that appeal.

" The ſociety of Londonderry having appealed to " your Lordſhips from the Lords of Ireland, the " appellants do pray that the ſaid appeal may be re- " ceived.

" 1ſt. That no appeal or writ of error, as is con- " ceived, lies to the Houſe of Lords in Ireland in " *any caſe*; but the errors of the courts of law and " equity there, are to be reformed in England; and " the appeal to the Houſe of Lords there is of dan- " gerous conſequence, and may tend to the hazard " of the Engliſh conſtitution and government " there; if the ſame ſhould be allowed by your " Lordſhips, it will equal the juriſdiction of the " Lords of Parliament in Ireland to that of the " Engliſh Peerage, which was never the deſign of " *Poyning's law*.

" 2d. In caſe the Houſe of Lords there have a " power of hearing and examining ſuch appeals, " yet their orders are not final, but ſubjected to re- " examination before your Lordſhips; who are the " ſupreme court of judicature, as well for that as " for this kingdom, as it is humbly hoped will ap- " pear to every man who ſhall impartially, among " other reaſons and authorities, conſider, 1. The " true origin, nature, and title of property in Ire- " land, as derived from, and under the crown of " England. 2d. The equality of reaſon for a ſubor- " dination in judicature, to the judicial power, as in " the legiſlature, to the legiſlative power in England.

" 3d. The protection which the *plantation* of Ire- " land always receives from the mother country, " with the vaſt ſums of money ſhe owes England. " The dependency reſulting thence in all reſpects " whatſoever, which, if appeals there be final, " will be in a great meaſure deſtroyed."

What

What reaſoning, what inductions, what a deſign to miſlead, by a reference to ſomewhat that was not clearly underſtood! What has Poyning's law to ſay to the judicial power of the Lords of Ireland? Or, in plain Engliſh and common ſenſe, what analogy is there between the law which regulates the paſſing of bills through the council, and the juriſdictive power? No more relation, no more analogy, than between the juriſdiction of Parliament, and the law of gravitation, or the doctrine of fluxions!

It is to be obſerved, that the argument of the council in favour of the Iriſh juriſdiction in the caſe of the Biſhop of Derry, in Shower's Reports, is purpoſely blanked and mutilated.

It would be neceſſary to mention the great caſe of Sherlock and Anneſly in the year 1717-18, when the Iriſh juriſdiction was ſuſpended; but the noble repreſentation of the Houſe of Lords of Ireland, and the detail of the merits of the caſe contained in it, render ſuch a detail unneceſſary. Hence it appears, that the widow Sherlock pleaded there *in forma pauperis*; that it was clearly a determination in favour of the weak againſt the ſtrong and powerful; that the repreſentation which was made upon that occaſion, does eternal honour to the great prelate, to Archbiſhop King, who framed it, and to the aſſembly who unanimouſly concurred in that repreſentation.*

The laſt caſe, in which the juriſdiction of the Houſe of Lords of Ireland was called in queſtion, was that of the Earl of Meath, and Cecilia, Counteſs of Meath, his wife. In 1692, an appeal was brought to this Houſe, from the Chancery of the county palatine of Tipperary, by Lord Meath, againſt a decree given in that court in favour of Lord Dudley and Ward; to this appeal Lord Dudley pleaded his peerage as a peer of Great Britain; but this plea was over-ruled, as no privi-

* Lords' Journals of Ireland, 17th Oct. 1719. v. ii. p. 655.

lege can obtain againſt an appeal, for that would be a total *bar* to the proceeding, as it can only be heard in a ſeſſion of Parliament; judgment was given in favour of Lord Meath, after a long proceſs, which laſted till 1695, and the ſheriff was ordered to give him poſſeſſion of the lands accordingly. During the interval of Parliament, Lord Dudley appealed from the determination of the Lords in Ireland to the Lords in England, who pronounced that the proceedings in Ireland were *coram non judice*, before an incompetent judge; and ordered the chancellor of the county palatine * to enforce their decree in favour of Lord Dudley.

When Parliament met in 1703, after an interminſſion of five years,† upon the petition of Lord Meath, the Lords enforced their order with great ſpirit, and came to ſeveral reſolutions vindicating their iuriſdiction; poſſeſſion was awarded to Lord Meath, and the family were poſſeſſed of the lands in queſtion for upwards of thirty years; but, in the year 1736, upon a petition to the Lords of England, they reſumed this matter again; a report was made of the whole proceedings, an order was ſent over to the Chancellor Windham to give poſſeſſion of the lands to the repreſentative of Lord Dudley, as the county palatine of Tipperary was extinguiſhed by the attainder of that illuſtrious nobleman, the great ornament of Ireland, the Duke of Ormond. The whole proceedings upon this affair, the letters that paſſed between the Lord Chancellor Talbot and the Chancellor Windham, are inſerted at length in the Journals of the Lords of England.

From this plain ſtate of facts, it is evident that no right was ever better founded nor better aſcertained

* The county palatine of Tipperary, which had been in the Ormond family from 1328; was totally ſuppreſſed by an Iriſh act the 2d of George I. c. viii. for the attainder of the laſt Duke of Ormond.

† From 1698 to 1703, Parliaments were not held in Ireland; a poll tax and a land tax having been granted for *five* years.

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than the Iriſh juriſdiction; the exact number of appeals that appeared on the Iriſh Journals from 1644 to 1719 amounts to thirty-eight.

It may not be inexpedient to contraſt this long-eſtabliſhed juriſdiction with the declaratory law, the 6th of George I. which follows at length.

"An Act for better ſecuring the Dependency of "the Kingdom of Ireland upon the Crown of "Great Britain.

"Whereas the Houſe of Lords of Ireland have, "OF LATE, AGAINST LAW, aſſumed to themſelves "a power and juriſdiction to examine, correct, "and amend, the judgments and decrees of the "courts of juſtice in the kingdom of Ireland; "therefore, for the better ſecuring of the depen-"dency of Ireland upon the Imperial crown of "Great Britain, may it pleaſe your moſt excel-"lent Majeſty, that it may be declared by the "King's moſt excellent Majeſty, by and with the "advice and conſent of the lords ſpiritual and tem-"poral, and commons, in this preſent Parliament "aſſembled, and by the authority of the ſame, "that the ſaid kingdom of Ireland hath been, is, "and of right ought to be, ſubordinate unto and "dependent upon, the Imperial crown of Great "Britain, as being inſeparably united and annexed "thereunto; and the King's Majeſty, by and with "the advice and conſent of the lords ſpiritual and "temporal, and commons of Great Britain, in "Parliament aſſembled, had, hath, and of right "ought to have, full power and authority to make "laws and ſtatutes of ſufficient force and validity, "to bind the kingdom and people of Ireland.

"And be it farther declared and enacted, by the "authority aforeſaid, that the Houſe of Lords of "Ireland have not, nor of right ought to have any "juriſdiction to judge of, affirm, or reverſe, any "judgment, ſentence, or decree, given or made "in any court within the ſaid kingdom; and

" that all proceedings before the ſaid Houſe of " Lords, upon any ſuch judgment, ſentence, or " decree, are, and are hereby declared to be, ut- " terly null and void, to all intents and purpoſes " whatever."

The words *of late*, and *againſt law*, were ſurely very extraordinary; theſe words are ſtrangely applied to the chartered right of the Iriſh Parliament, to the cuſtom and long tide of precedents for three centuries. Never ſure was ſuch an unparalleled act of injuſtice, never was the omnipotence of Parliament ſo extended, not only over right and juſtice, but over truth itſelf; an omnipotence greater than that of the Supreme Being himſelf, for he can do no wrong: but this act decided that the Britiſh Parliament, ſwayed by the luſt of power, could do flagrant wrong and notorious injuſtice.

Some doubts* prevailed, in 1781-2, that the Lords of Ireland had never any cognizance of writs of error, though they had of appeals; and that the conſtant practice was to remove them to the King's Bench in England; we ſhall, therefore, beg leave to ſay a word on that ſubject, and to dwell particularly on the precedents of writs of error in the Iriſh Journals.

There are four precedents of writs of error before the Reſtoration; and on the 20th of December, 1662, the mode of proceeding upon them was ſettled by the following entry, in the Journals of the Houſe of Lords of Ireland:

" Memorandum, that the Lord Santry, chief " juſtice of the King's Bench, declared, that he " was commended by writ of error, to bring in a " record of a judgment between Robert Park, " Eſq. plaintiff, and Kean O'Hara, and Uxor, " defendants; and that, according to *cuſtom*, the " original ought to be returned to ſaid court, hav-

* Theſe doubts were ſuggeſted by the late Earl Bathurſt.

" ing

" ing firſt compared a tranſcript therewith; which
" rule was accordingly obſerved, and the tranſcript
" ordered to be read the firſt day of next ſitting."

In conſequence of five records having been brought in by the chief juſtice in 1710, a committee was appointed to conſider the mode of proceeding, and the foregoing precedent was reported, as the rule of proceeding.

This mode of proceeding obtained till the ſuſpenſion of the Lords juriſdiction in 1719, during which period there are many precedents of writs of error, in the Houſe of Lords of Ireland.

It is neceſſary to mention that the ſtanding orders were framed, with regard not only to appeals, but to writs of error, on the ſame plan of thoſe in the Houſe of Lords of England, and that an Iriſh act of Parliament, paſſed in the 6th year of George I. c. 6. for the limitation of writs of error; ſo that writs of error have been determined upon in the Iriſh Houſe of Lords, grounded on ancient practice, regulated by the ſtanding orders, warranted and countenanced by the law of the land.

The rights of Parliament at large, of the Commons, as well as of the Peerage, were materially affected by the declaratory law; the judicial power extending to criminal as well as civil caſes; the power of impeachment was by a fair analogy annulled by the Engliſh act of the 6th of George I. but as this might lead to a very long diſſertation upon criminal proceedings in Parliament, we ſhall cloſe this narrative with an extract of the account given in the Memoirs of the Houſe of Ivery, by the late Earl of Egmont, of this extraordinary tranſaction.*

* The caſe of the London Company and the Biſhop of Derry, which is alluded to in the foregoing chapter, is a curious paper, which was given to the author in 1781-2, through the favour of Mr. Hargrave, by Mr. Serjeant Hill, who has made a collection of

all the printed cases before the Lords, arranged in a regular series, since the Restoration; and it is preserved here at length.

10th of May, 1698.

The case of the society of the governor and assistants of the new plantation of Ulster, in Ireland, appellants; against William, Lord Bishop of Derry.

The said society, who are a corporation, made out of the twelve companies of London, being seised, *inter alia*, of the hill on which the city of Derry is built, and four thousand acres of land adjoining, by several leases from the committee of England, which were made in consideration of great charges in building the said city of Derry and several other fortresses thereabouts, and planting and peopling those parts with Protestant tradesmen, artificers, and husbandmen, to the great security and advantage of that kingdom and the reformed religion there, the said society did assign and set out to the said city, soon after its being built, about fifteen hundred acres, part of land, to be held under the same society, at some small rent or acknowledgment for the support of the magistracy thereof, they having little else for that purpose; which that city has all along enjoyed accordingly, and the society have been still known to be the proprietors thereof, and were found to be so by the public survey in Ireland, commonly called the civil survey, in the year 1654, as thereby appears, and they have always paid, and do still pay, the king's rent for the same to this day, and by several entries in the common-council books in the city of London, from the first building of Londonderry, about the year 1610; the society's title to these lands, and the grant and tenure of the same from and under them, as aforesaid, is manifest; and, by depositions taken in this case, by very ancient witnesses there resident, does appear; yet, notwithstanding all this, and although by the grand inquisition which was taken at Derry, in Ireland, about ecclesiastical land belonging to the crown, these lands were not found to be bishops lands, and to be part of the lands escheated from the crown, yet the present Bishop of Derry hath now lately set up a claim to those lands as belonging to the see; and that either as a part of the ancient possessions belonging thereto, which is contrary to the said inquisition; or by colour of some grant from Charles I. to Bishop Bramhall, his predecessor, which will appear to be void and pass for nothing; the said society being then, and long before, actually seised by their letters patent, which letters patent were obtained upon some private contrivance or compact between the said Bishop and the city of Derry, who were the tenants of those lands to the said society without the knowledge and in prejudice of the said society, there being by the said grant 90l. 10s. per ann. reserved to the said city for ever and out of the said lands: and farther, it is pretended, in behalf of the said present Bishop of Derry, that the said Bishop Bramhall had made a lease of

of thoſe lands to the city of Derry, for a long term of years, which, as it is confeſſed, did expire in 1694, and that the ſaid city had paid a rent thereupon, and conſequently that he had a poſſeſſion; of all which the ſaid ſociety heard nothing, till the year 1692, and then, being informed that ſuch letters patent and leaſe were pretended to be in prejudice of their inheritance, and that the now biſhop was ſetting up a claim to the premiſes aforeſaid, they ordered their general agent to ſecure and continue their poſſeſſion of the ſaid lands, which they conceived they ſtill had, and were juſtly entitled to, and he accordingly did it in July 1694. Then the ſaid biſhop, in October 1694, brought his bill in chancery in Ireland, without alledging any grant to Biſhop Bramhall, in order to be reſtored to, and quieted in the ſaid ſuppoſed poſſeſſion; and many perſons, parties to his bill, who anſwered the ſame; yet none of them could ſay that the ſaid lands were belonging to the ſee, or that they knew of his right: and on the hearing, there was no proof of any kind of title or ſeiſing, but only that ſome of the defendants had confeſſed, in their anſwers, that Biſhop Bramhall had made ſuch a leaſe as aforeſaid to the city of Derry, and that a rent, or yearly ſum, had been paid, on that account, to the Biſhop of Derry, from 1662 to 1694, but no actual entry of any biſhop on ſaid lands, at any time, did at all appear; but the city of Londonderry had continued always in the poſſeſſion as under their firſt title from the ſociety, though they had paid ſuch rent to the biſhop of late, merely as being concluded at law, by taking the ſaid leaſe to avoid ſuch payment, which leaſe could paſs no intereſt or poſſeſſion, the biſhop having none that made it, and at moſt it would only work by eſtoppel between the parties during the leaſe, and no longer; and, being expired, all pretence on that account was gone.

The Lord Chancellor, on hearing the cauſe, ordered an iſſue at law, to try whether the ſaid biſhop, or any of his predeceſſors, had ever any, or what, poſſeſſion of ſaid lands, or to that effect; and from that interlocutory order, before any trial or decree, the biſhop appealed to the Houſe of Lords in Ireland, who ordered that the Chancellor's order ſhould be reverſed, that the biſhop ſhould be reſtored to the lands in queſtion, by an injunction of that Houſe; and the ſame was accordingly done ſoon after by the ſheriffs of Londonderry, and the ſociety turned out of their poſſeſſion.

The ſociety having therefore appealed to your lordſhips from thence, and the appellants do pray that the ſaid appeal may be received.

1ſt. For that no appeal, or writ of error, as is conceived, lies to the Houſe of Lords of Ireland in *any caſe*; but the errors of the courts of law and equity there are to be reformed in England, and the appeal to the Houſe of Lords there is of dangerous conſequence, and may tend to the hazard of the Engliſh conſtitution and government there; if the ſame ſhould be allowed

lowed by your lordſhips, it will equal the juriſdiction of the Lords of Parliament in Ireland to that of the Engliſh peerage, which was never the deſign of *Poyning's law*.

2d. In caſe the Houſe of Lords there have a power of hearing and examining ſuch appeals, yet their orders are not final, but ſubjected to re-examination before your lordſhips, who are the ſupreme court of judicature as well for that as this kingdom, as is humbly hoped will appear to every man who ſhall impartially conſider, among other reaſons and authorities,

1ſt. The true original and title of property in Ireland, as derived from and under the crown of England.

2dly. The equality of reaſon for a ſubordination in judicature to the judicial power here, as in the legiſlature to the legiſlative power of England.

And, 3dly. The protection which the *plantation* of Ireland always receives from the mother country, with the vaſt ſums of money ſhe owes to England on that account, and dependency reſulting therefrom in all reſpects whatſoever, which, if appeals there be final, will, in a great meaſure, be deſtroyed wherefore, it is moſt humbly prayed, that your lordſhips will receive and examine this appeal, and the rather in this caſe, becauſe the order of the Chancery there was juſt and reaſonable; firſt, by a title at law to ſettle the right to the poſſeſſion before the court, would change the poſſeſſion from the appellants, to give it to the biſhop, who did not appear to have a better nor ſo good a right as the appellants had: but, leaving the merits of the cauſe to your lordſhips juſt judgment, when the ſame ſhall come to be heard before this honourable Houſe, it is hoped the appeal will be received for the reaſons above-mentioned.

B. SHOWER.

CHAP. II.

The Repreſentation of the Houſe of Lords in 1719 *to King George the Firſt—the Earl of Egmont's Account of that Tranſaction—and his Lordſhip's Opinion of the Legiſlative Incorporation of Great Britain and Ireland.*

AT this conjuncture, when their own privileges and the independence of the Iriſh Parliament were menaced by the celebrated declaratory law, the Houſe

Houſe of Lords exerted themſelves with great ſpirit and ability; but their labours were ineffectual againſt the influence which then predominated.

A repreſentation was drawn up and preſented to the Duke of Bolton, the Lord Lieutenant, to be laid before his Majeſty; in which they traced their judicial privileges from its origin, with great ability; the conſequences of the blow that was intended to be given to the privileges of Parliament; and the injury that would enſue to the people of Ireland.

A partial extract from this ſtatement would give but a feeble idea of one of the ableſt repreſentations that was perhaps ever made from any aſſembly; as ſuch it claims the attention not only of the members of the Iriſh Legiſlature, but it may ſerve as a model of that ſort of compoſition: it was, in a word, worthy of the pen of the great author of the Origin of Evil, of the learned prelate Archbiſhop King, by whom it was compiled.

This great man, after all his ſufferings at the Revolution, his able hiſtory of the ſtate of the Proteſtants under King James the Second; his zeal and activity in promoting the cauſe of the Hanover ſucceſſion; was ſuppoſed to have incurred the diſpleaſure of the court upon this occaſion; and he was ſuperſeded, in the evening of his life, in his juſt claims to the primacy, by Dr. Boulter, who, though far inferior to him as a ſtateſman, a philoſopher, or a theologian; was better qualified, by the dull orthodoxy of miniſterial ſervility, to be the political drudge of adminiſtration.*

The ingratitude of a court, and this injudicious preference of adminiſtration, did not deprive him of the juſt influence that he always retained, and which wiſdom beſtows upon her children; nor of

* The primate Boulter was a remarkable heavy, dull, lethargic ſpeaker, and Dr. Bolton, Archbiſhop of Caſhell, is reported to have ſaid, when he was ſpeaking upon a very intereſting queſtion—" I ſhould be glad to hear him when he is awake, for " he does not ſpeak ill for one that is aſleep."

his

his wonted pleaſantry and raillery; and it is ſaid, that when Primate Boulter had viſited him ſoon after his arrival in Ireland, the Archbiſhop, who was enfeebled by an accidental indiſpoſition, received him ſitting in his chair, ſaying, "your Grace "muſt excuſe me, I am too old to riſe."

Of this noble repreſentation, which is very long, *two* particulars are well worthy of notice, as they apply to the great political queſtion of the preſent moment:

The firſt is, that the long interval of the Iriſh Parliament for twenty-ſix years, from 1666 to 1692, was owing principally to the predominance of a Roman Catholick intereſt, and the difficulties attending excluding Catholicks from ſitting in the Iriſh Parliament.

And, ſecondly, the ſtatement contained in the concluſive words—"Nor can we, but with grief, "obſerve, that while many of the Peers and Com-"mons who ſat in Parliament were Papiſts, their "judicature was never queſtioned, but of late, "ſince only Proteſtants are qualified to *have a ſhare* "*in the* Legiſlature,* their power, and the right of "hearing cauſes in Parliament, hath been denied, "to the *great* diſcouragement and weakening of the "Proteſtant intereſt in Ireland."

It is extraordinary, and will appear ſcarcely credible to an enlightened poſterity, that the Houſe of Commons were neuter, and appeared to be wholly unconcerned in this intereſting ſtruggle and moſt important queſtion; but, as the following account throws a ſtrong light upon their conduct, it is extracted at length, from the Earl of Egmont's Hiſtory of the Houſe of Ivery.

* The Roman Catholicks were firſt diſqualified from ſitting in Parliament in 1691, by an ENGLISH Act of Parliament, before which period they were admiſſible. Of one hundred and nineteen Iriſh Peers, thirty-nine were Catholicks, in the reign of Charles the Second. Lord Mountmorres's Hiſt. of the Iriſh Parl. vol. ii. p. 217.

Genealogical Hiſtory of the Houſe of Ivery, in its different Branches of Ivery, Lovel, Perceival, and Gournay. Vol. II. p. 442, *&c.*

The Lords in England now revived their pretenſions to the judicature of that kingdom; (in 1716) ſeveral appeals were made from the Lords in Ireland to thoſe in England; among the reſt, one in which Maurice Anneſley and Eſther Sherlock were the parties; the cauſe had been already determined in Ireland, in favour of Eſther Sherlock, who was thereupon poſſeſſed of the eſtate, but the Lords in England ſet aſide that judgment, and made a decree in favour of Anneſley.—The difficulty only remained how to enforce the execution of it. But the Earl of Sunderland, a man of great art and determined temper, then firſt miniſter, had ſecured the judges, who in defiance of the conſtitution of that kingdom, and of the reſolutions of the Houſe of Lords, and in expreſs violation of their oaths, betrayed their great truſt, and iſſued orders to the ſheriffs to put the Engliſh decree in execution. The ſheriffs not daring to comply with this illegal and unprecedented warrant, refuſed to obey, and were in conſequence by the ſame judges exorbitantly fined; whereupon the Lords in Ireland, taking this extravagant proceeding into conſideration, after having debated the matter with the greateſt ſolemnity, came to ſeveral ſtrong reſolutions in defence of their rights, and in juſtification of the ſheriff's pronouncing the judges betrayers of the King's prerogative, and the undoubted ancient privilege of their Houſe; after which, they ordered the judges into cuſtody. But the Engliſh miniſter, who had foreſeen the event, was prepared for it, and knowing that what had paſſed could not be juſtified by precedent or law, prepared a bill in England to declare the judicial power of the Houſe of Lords of no validity in Ireland.

It appears at firſt ſight an extravagant imagination, that the King of England could ever have been brought to paſs a law to break the privilege of a peerage, the creature of the crown itſelf; but we have ſhewn how ignorant he was kept with reſpect to that kingdom: what is more extraordinary is, that it could ever be ſuppoſed the Commons of England ſhould concur in ſuch a meaſure, which ſo manifeſtly tended to aggrandize the Engliſh Peerage, of which they are always jealous—but ſeveral circumſtances prevailed upon them, and in the firſt place the general ardour of the nation to reduce Ireland in every inſtance to a clear and confeſſed dependence on the Engliſh Legiſlature.—In the next place, the great influence of the court in the Houſe of Commons was alone ſufficient to ſecure a majority in any inſtance of the views of a miniſter; and laſtly, it was artfully inſinuated, that whatever power the Lords in England ſhould acquire by a declaration of the invalidity of the juriſdiction of the Iriſh Houſe of Lords, it would be but *temporary* to them and *permanent* to themſelves, the judicature being a right which they had always claimed, and had never formally yielded or allowed to the other Houſe alone.

In conſequence of this management, as we have already ſaid, a bill was prepared, which afterwards paſſed into a law, reciting, that the Iriſh were diſpoſed to ſhake off their dependence on the crown of England; an aſſertion more remarkably void of all foundation at that time, than in any other period from its firſt acquiſition to that hour, and warranted by nothing elſe but this concluſion, that no nation, ſo treated, could be otherwiſe inclined. From theſe premiſes, they came to this determination, that the judicature of the Peers of Ireland ſhould be declared invalid.

Upon this occaſion the Lord Perceival exerted himſelf, both in writing and ſpeaking in public and private,

private, to the utmoſt of his power; and, in concurrence with twenty-one Peers of Ireland, then in England, petitioned the King to refuſe his conſent to this unparalleled attack upon the ancient and undoubted rights of that nation; "they ſet "forth the ancient title of the Peers and Parliament of Ireland to this privilege, the attacks that "had been made upon them in former times, and "the confirmation of them from age to age; the "ill-convenience and danger to private property, "in being called from the other country, where "many cuſtoms, which affect the laws, are different, and conſequently little underſtood in England; the hazard of the loſs of private deeds "and ſettlements in long journies and ſea voyages "at all ſeaſons of the year;—the prejudices againſt "Ireland both private and public, which, raging "ſo highly in the nation, might, ſome time or "other, infect the Engliſh Peerage alſo;—the Miniſterial influence which might hereafter ariſe in "that Houſe, and which, if it ſhould ariſe, muſt "operate moſt fatally to that country, as they were "a body without controul or check of any kind "from that people, whoſe property they were thus "admitted to determine;—the vaſt expenſe of the "ſuits, and the inability of the poorer ſort, to contend againſt the rich, the ſource of oppreſſion and "injuſtice that would thence be opened; they "ſhewed likewiſe the injury of ſuch an alteration, "not warranted by any deſire of that nation, not "ſanctioned by any ſhew of juſtice, any pretence "of ill-convenience, either private or public, ariſing from the ancient conſtitution; they urged "the diminution of the King's prerogative, already "too far imparted to the Engliſh Parliament with "reſpect to them; they modeſtly inſinuated the "fatal miſchiefs that might enſue from the conſtant "and repeated attempts of late years made upon "their liberties, and now upon their properties.—

" Laſtly, they diſcovered the vanity of the law it-
" ſelf, to attain the point at which the Engliſh
" aimed, which was to make their new-aſſumed
" authority legal; for, unleſs it were ſo before, no-
" thing could give it *that title*, or in many caſes, *that*
" *effect*, but the conſent of Ireland."

Yet notwithſtanding theſe endeavours, the point was carried againſt them, the Engliſh being ſupported by the circumſtances we have mentioned, and, indeed, in ſome degree, aſſiſted by that wretched nation itſelf;—for, if ever they ſhewed moſt eminently thoſe qualities with which they are commonly reproached, they did it upon this occaſion. Abſurdly conſidering this attack as no violation of the conſtitution of their country in general, the Commons afforded no aſſiſtance to the Lords in defence of this privilege. Pleaſed with the vanity of being brought, as they imagined, by this means to a nearer level with the nobility, their pride and envy induced them to overlook the general contempt derived upon their whole nation, by their tame ſubmiſſion. If they had reſented this meaſure, as a national blow upon their liberties, if they had exerted themſelves as all other nations would have done upon ſuch an occaſion, or even as they themſelves once did in the affair of the braſs money,* it may be well doubted whether they might not have prevented the ſucceſs of this project, ſo fatal to their intereſt.—But the Engliſh miniſters were thoroughly confirmed in their deſign, by the abject and contemptible behaviour of the Commons there, of whom too many, in private companies, expreſſed the pleaſure they took in the abaſement of the Peers.—This folly and baſeneſs, too often ſhewn on many other public occaſions by that people, have many complicated cauſes. But the original cauſe of all the reſt is, what ſhould rather give them title

* Lord Egmont here alludes to the Patent for Wood's halfpence, recalled 21ſt Sept. 1725, Ir. Comm. Journ. vol. v. p. 236.

to

to pity and compaſſion, than expoſe them to reflection or contempt; it is neither incident to their ſoil or climate, to the diſpoſition of their minds, nor to the temper of their bodies; it is not the growth of any particular region, it is the eternal product of unhappy government.---Nations enſlaved and oppreſſed, wherever ſituated, will become odious in their private characters, contemptible in their groſs conception of things, vicious in their habits, arrogant in *private*, abject in *public life*. In governments thus conducted, the educations of men are neglected, their purſuits are idleneſs and ſenſual pleaſures, becauſe they find no encouragement or advancement from eminent virtues, acquired talents, or the culture of the underſtanding.---Wherever theſe are nationally neglected, not only ignorance, but vice will nationally prevail; the contempt which ſuch a conduct, and their other miſeries, draw down upon ſuch a people, creates *an inſolence of behaviour* to thoſe *beneath* them, and *a mean* ſubmiſſion to thoſe *above* them; *the firſt* ariſing from endeavouring to force, through fear, what they cannot attain through dignity; *the other* from the continual dread of power, which bearing heavy on them, inſpires a conduct practiſed at firſt, and in part, through prudence, but rivetted at length, and univerſally, by habit; leſs capable, by the unimprovement of their minds and manners, to follow any good example of virtue; the rude nature of a people, under ſuch a circumſtance, is found better able to copy the vice and immorality, the luxury and the corruption of their ſuperior ſtate, which they generally do with a ſavage imitation, making up, in *the exceſs*, what they cannot attain in *the politeneſs* of the original. Thus the *laity* become either void of all religion, or devoured by ſuperſtition, (extremes, the twin-offspring of ignorance;) while the *clergy*, negligent of their ſpiritual concerns, are ſtill more infected with ſpiritual pride, and the luſt of temporal

ral authority, than even in other countries. This is the true portrait of *Hungary*, under the tyranny of the Houſe of *Auſtria*; of *America*, under *Spain*; of *Corſica*, under the *Genoeſe*; and of all other ſtates under an arbitrary, ſubordinate, and dependent rule. How far it may be found that all theſe circumſtances concur with reſpect to the country of which we ſpeak, may beſt be anſwered by thoſe who aſcribe all the conſequences to them, and who ought to know the moſt of a miſerable condition; which, if it does exiſt, exiſts wholly, and is derived only from their own conduct. But, in part, we cannot avoid unhappily to diſcover ſomething of this malign effect of their unequal government in their behaviour upon the preſent queſtion; they had, indeed, ſome ſpecious pretences for this behaviour. Their houſe of Lords was vilified, as we have before obſerved, by an acceſſion of peers; ſome mean in character; others no way eminent in fortune in either kingdom; and not a few who had none at all in that country, where they had been advanced to honour. The Biſhops, of whom that Houſe is alſo in part compoſed, were likewiſe generally preferred from the neighbour country, diſtinguiſhed for nothing but partiality to the nation from whence they came, and ſervility to its adminiſtration; to which may be added, that, by the diſagreeable ſtate of that country, the greateſt and the ableſt of the peers living out of it, the ſame Biſhops, by their numbers nearly balanced the temporal Lords who remained upon the ſpot. The major part of theſe were kept under a certain influence, which took them from the direction of themſelves, and very near as many to ſuch a degree, infected by the ill habits of the public, farther aggravated by a ſort of impunity from their titles, that they ſtudied rather how to ſhew their pre-eminence in the ſtate, as ringleaders of a low debauchery and diſſolute extravagance, than as protectors of the liberties and properties of the nation. A little remnant

nant there was of excellent men, who did honour even to their own honours; but they were much too few to ſtem the ſpiritual power, or to reform the reſt.

Theſe circumſtances undoubtedly made it uneaſy to that country, that the peerage there ſhould enjoy the abſolute deciſion of judicial matters; and theſe were the pretences of the puſillanimous and pitiful conduct of the Commons upon this occaſion; but theſe were not the real motives of it. In truth, if their condition was bad, becauſe their own peerage wanted men of knowledge to ſit in judgment, could it be ſuppoſed that a foreign judicature would be better acquainted with their laws and cuſtoms? If they dreaded the decrees of their own legiſlature, becauſe they were thought dependent on the adminiſtration of another country, did they do wiſely to ſubmit every thing to a foreign legiſlature, no leſs dependent, in the opinion of that time, on the ſame authority, and naturally void of thoſe incentives to remorſe, which muſt, in ſome degree, be found in their domeſtic courts? In *fine*, could any man of ſenſe reſign for ever the advantages of an independent conſtitution, in an article of ſuch importance, when whatever might be urged in diſcredit of their own judicature, as to its ignorance, corruption, or the non-attendance of its members, was but a temporary evil, which time might remedy, and no meaſure more likely to do it than the continuance of this privilege, and when, at the ſame time, whatever might be argued in favour of the foreign judicature to which they ſubmitted, as to its juſtice, integrity, and incorruption, (were there nothing dubious, as to the preſent exiſtence of thoſe virtues, nothing ſuſpicious as to their declining ſtate) was at beſt but temporary alſo? Theſe, therefore, were fallacious reaſonings, to colour the real principle. Many of the Commons of that kingdom were in reality new men, the late deſcendants of the ſubalterns, or common ſoldiers of *Cromwell's* army, or the newer offſpring of

clerks in offices, who, in the former diſtracted times, and in the looſe government of the ſubſequent age, had ſuddenly riſen to conſiderable fortunes; *the one* hereditarily embittered to theſe diſtinctions, as appendages of monarchy; the other (and both) corroded by the envy of ſuperior families; thus ignorance and puſillanimity, republicaniſm and envy, operated upon the majority of the preſbyterian, proteſtant, and another ſect newly ſet up; a kind of apes, who mimicked the free-thinkers of other countries. *In parties*, Commonwealth, Tory, Whig, and anarchick *intereſts*; ancient *Iriſh*, modern *Iriſh*, and new *Engliſh*, confounded and kept under the rational minority; inſomuch that, as it uſually happens, an extravagance of diſunion produced an union in this inſtance, which it has for a long time done, and will probably do for ages yet to come; that is to ſay, a general agreement to endure ſubmiſſively the greateſt grievances that can be laid upon them, and from which that nation cannot, for many future generations, expect to be relieved, but by the ſagacity of the *Engliſh*, who may probably be induced, at one time or other, for their own ſecurity and *advantage, to comprehend* that people under one *common, juſt*, and *equal* conſtitution. But here we ſhall ſtop in this digreſſion, which (though not wholly foreign to this work, or to the method which we have choſen to purſue in it, to relieve the natural dryneſs to which all private hiſtories are ſubject) has been carried to a greater length, as being a matter little underſtood, and never before impartially conſidered, and which may yet have greater conſequences than are commonly expected from it.

We ſhall, therefore, only add our earneſt wiſhes that juſtice and good policy may at length ſo far prevail as, that if it be found convenient to the intereſt of this nation, to diſſolve the ancient government of that kingdom; the view may no more be followed in a way of violence, prejudice, and paſſion; but that,

that, by a ſtrict and equal treaty, that nation may be brought to reſign their privileges by their own act, and be admitted and incorporated with the legiſlature of this kingdom; till when, it is obvious to every thinking man, that every member of that people will conſider himſelf no better than a ſlave, nor the *Engliſh* better than a race of tyrants, whoſe power, as it ſeems to them a cruel and a flagrant uſurpation, will be no longer obeyed than the proſperity of *England* ſhall enable them to enforce it.—Strange infatuation in a people ſo generous, ſo wiſe and free! Strange evidence how the luſt of power can pervert the judgment, and prevent the ſenſe of the dangers that have, and may again proceed from this imprudent conduct! Strange inſtance of the weakneſs of human nature, and of its partiality to itſelf! Since we can ſo generally condemn the folly of other nations in the ſame proceeding, and ſo well mark its conſequences in the revolutions of many other ſtates, without reflecting one moment upon our own meaſures! But let us conſider how the *Dutch* became diſmembered from the once moſt potent monarchy of the world; and let us reflect what expectations have been built in the politics of theſe preſent times,* from the very ſame conduct in *Spain* with reſpect to the *Creoles* or *Spaniſh* natives in *South America*; to whom in condition, treatment, and reſentment, no people upon earth, but this of whom we ſpeak, can be compared.

* It had been a favourite ſcheme of the Adminiſtration, in 1741-2, when the Hiſtory of the Houſe of Ivery was compiled, (or a little before that period) to excite a revolt in Spaniſh America; and to alienate thoſe provinces from Spain:—to that project, Lord Egmont here alludes; and it was ſuppoſed to have been the PRINCIPAL object, of the celebrated expedition of Lord Anſon.

CHAP. III.

Reflections upon the Earl of Egmont's Account of this Tranſaction;—and upon the Legiſlative Incorporation of Great Britain and Ireland.

IT may not be inexpedient to preface ſome reflections upon the Earl of Egmont's account of this extraordinary tranſaction, with a ſhort ſtatement of the ſituation, power, and privileges of the Iriſh Parliament, at different periods, of its convention.

Whoever has conſidered the annals of the Iriſh Parliament, from its origin to the preſent period, and has attentively obſerved the various changes, and the long intervals that prevailed in that aſſembly, will probably form, with the author, concluſions ſimilar to the following obſervations.

In early periods, and till the reign of Charles the Second, the powers and privileges of the Iriſh, were ſimilar to thoſe of the Engliſh Parliament; they were governed by their own laws, and enjoyed their own judicature.

After an interval of twenty-ſix years, four ſeſſions only were held in the reign of King William, when that aſſembly laboured in vain to maintain its rights; and the Revolution, which was ſo favourable to Engliſh liberty, was highly inauſpicious to the independency of Ireland.

Parliament was convened in 1703, after an intermiſſion of five years, and they have aſſembled every two years from thence, till 1783; ſince which time, they have been annually convened.

But, from the beginning of this century, till the laſt fifteen years, the Iriſh Parliament were in a moſt deplorable ſtate of political ſervitude; and to this period, the ſevere reflections of the noble Earl ſeem to be but too well applied.

The

The great advantages acquired during the laſt period of fifteen years, and thoſe conſtitutional acquiſitions, the fruits of the exertions of a virtuous band of patriots leagued by the beſt principles, and united by a genuine regard for public welfare; were, however, no more than the re-eſtabliſhment of thoſe privileges they formerly enjoyed, in the reign of Charles the Second.

In the Parliaments of that reign, the Iriſh laws were alone predominant; the juriſdiction of Parliament was inviolate; religious tenets formed no reſtraint upon voters; and Catholicks were admiſſible to Parliament.

All theſe privileges, ſave only the laſt; have been regained and fully reſtored in the laſt fifteen years: and this will lead, to offer an humble tribute at the ſacred ſhrine of public welfare, in ſuggeſting, with due deference and reſpect, two grand objects which ſtill remain to be accompliſhed.

It is very remarkable that the ſeſſion of 1719, which was held at a very inconvenient ſeaſon, commencing the 26th of June, and ending the 2d of November, in which the Commons were ſo completely ſilent upon the annihilation of the Parliamentary judicature, and the legiſlative independence of Ireland; was yet diſtinguiſhed by a law, in favour of toleration.

The act of uniformity was new-modelled in favour of the Proteſtant diſſenters in 1719, and they were exempted from all reſtrictions; ſave only that of receiving the ſacrament according to the rites of the church of England, when they obtained offices; commonly known in both kingdoms, by the ſhort name of the Teſt Act, which in 1781 was totally repealed in Ireland.

One of the important meaſures which ſtill remains to be accompliſhed, is the extenſion of this toleration; and placing the Catholicks in the ſame ſituation with Proteſtant diſſenters; to which,

their good conduct for upwards of a century, gives a fair claim upon the juſtice; as well as the true policy, and laſting intereſt of the community.

Their claim may be thus ſhortly ſtated with mathematical preciſion:

All ſubjects are entitled to equal privileges; unleſs they preſerve dangerous connections with the enemies of the ſtate; and when thoſe connections are diſſolved and their tenets are no longer dangerous, they ſhould be reſtored to the privileges which they formerly poſſeſſed.

The Iriſh Catholicks were admiſſible to offices and into Parliament until the Revolution; they were ſuſpended from thoſe advantages, for their attachment to the Pope and the Pretender; but thoſe temporary attachments no longer exiſt, nor are no longer dangerous; therefore, the only remaining diſabilities ſhould be removed, and the CATHOLICKS ſhould be reſtored to thoſe privileges which they FORMERLY enjoyed in common with the reſt of the community.

Another great and eſſential meaſure originates from the reflection; that all the members of a ſtate ſhould contribute equally and in juſt proportion to the public exigency: that reſidents are better ſubjects than abſentees; but, that the taxes are ſo aukwardly contrived in Ireland that the whole burthen of taxation falls upon thoſe who reſide; while thoſe who are abſent, contribute little or nothing to the taxes for the ſupport of the eſtabliſhment.

It is not here contended that men ſhould be fined for living in this or in that country; in Ireland, in England, or in a foreign country: but, that the burthen ſhould be equal, and that a reſident ſhould not pay all, while an abſentee is almoſt exempted from public contribution.

Hence the neceſſity is evident of ſuch a ſyſtem of taxation, as ſhould equalize public contribution: and hence it is alſo clear, that an Abſentee Tax

would be no injuſtice; ſince it would only conduce to put the abſentee and the reſident in nearly a ſimilar predicament.*

To theſe neceſſary meaſures may be added an arrangement much wanting in Ireland, viz. the prohibition of letting farms at a profit rent from one tenant to another; thoſe ter-tenants are the ruin of the country; and when accompanied with the heavy burthen of tythes; they are the principal cauſes of all the riots and inſurrections, whiteboys, &c. in the ſouth of Ireland; in ſome diſtricts of that part of the iſland, farms contain often from five hundred to a thouſand Iriſh acres;† where there are two, three, and even four tenants on the ſame farm; ſo that the faces of the real occupiers of the ſoil are ground to the earth, like the peaſants in Poland.

The interdict of thoſe ter-tenants, or of ſub-ſetting as it is called in Scotland, without the landlord's expreſs leave, would be an admirable regulation; and taxing ſuch licenſes, would be a ſtill farther reſtraint and a productive ſource of revenue.

It may not be irrelevant to this ſubject to mention a moſt curious remark, extracted from the moſt extenſive, enlightened, and authentic traveller that our age has produced, from Profeſſor Thunberg's Travels in Japan.‡

Where, ſpeaking of the highly improved ſtate of agriculture in that vaſt and civilized empire, and the happy ſtate of the farmers far beyond that of any country in Europe, he ſays, "That what con-
"tributes ſtill more to the happineſs of the te-
"nant, and leaves ſufficient ſcope for his induſtry
"in cultivating his land, is, that he has only ONE

* Liſt of the Abſentees of Ireland, &c. by Redmond Morres, Eſq. M. P. for Dublin in 1773, ſixth edit. printed by Faulkner.
† The Iriſh is to the Engliſh acre, as eight to five.
‡ Travels by Profeſſor Thunberg, &c. vol. iv. p. 81.

"maſter,

"master, viz. his feudal lord, without being under "a host of masters, as with us."

It is to be observed, that this enlightened traveller, the pupil and successor of the great Linnæus, in the botanical chair of the university of Upsal, *here* speaks of Sweden, where, probably, as in Ireland, and in other parts of Europe, this pernicious custom and unrestrained practice, still counteracts the improvement of the country, exhausts the soil, impoverishes the real cultivator for the benefit of a drone, and discourages the industry of the farmer.

Fortunately for Ireland, Poor Laws similar to those in England do not prevail in that country, though the English system was attempted to be introduced there in the reign of the second Charles;* there is yet no regular provision for the poor, and they still subsist by voluntary contributions.

County hospitals were built there in 1765, maintained partly by them, and partly by local assessments; and if workhouses were erected also† in the same districts; the national industry might be promoted, and the manufacture of sail cloth, the most valuable branch of the linen manufactory, might be introduced in the southern counties; which would prove, if ever it should be encouraged, according to the plan of Lord Somers, a mine of wealth to the British empire.‡

But of all other arrangements, the most essential and necessary is the encouragement of the brew-

* History of the Irish Parliament, vol. ii. p. 118. 232.

† A plan for building houses of industry in every county in Ireland was submitted the 10th of March, 1696-7 to the Board of Trade, when that great luminary, Mr. Locke, was a member of that institution; and from the Records thereof, it appears that he gave his opinion in favour of that plan.

‡ Preface to the Danger of the Political Balance of Power, translated from the original French of the late King of Sweden, printed for T. Becket, Pallmall, p. 15. English Lords Journals, vol. xvii p. 485.

eries,

eries, in preference to the diſtilleries; and the entire ſuppreſſion of the abuſe of ſpirituous liquors in that country.

All hopes of national improvement, of general induſtry and civilization are idle and viſionary, where liquid poiſon is permitted to be ſold at the corner of every ſtreet, and rendered a lucrative ſource of revenue. The uſe of opium in Turkey, and of whiſkey in Ireland, are equally pernicious; deſtructive of the morals, of the underſtanding, of the health, and corporal ſtrength of the preſent, nay, of the future race, in thoſe countries.

Some regulations have lately prevailed in Ireland, but, inadequate to the prevention of this *bane* of national proſperity; but as the author has elſewhere enlarged upon this ſubject,* he ſhall now conclude with humbly recommending this, as the grand primary object, which ſhould precede every other conſideration.

Should arrangements of this kind obtain, Ireland might flouriſh to as great a degree, or in a greater proportion, perhaps, than any part of the old world; *of the Old World* is *emphatically* repeated; becauſe the tendency of the fatal and impolitic conduct of the allied powers combined by Imperial loans, and *fed* by ſubſidiary treaties, will ultimately tend to accelerate the future greatneſs of America, and the poetical prophecy of Biſhop Berkley will no longer be conſidered as romantic and viſionary.†

It is to be hoped, however, that the good genius of England will reſcue her from calamities incurred

* Letters of Themiſtocles printed by Hookham, Bond-ſtreet, p. 88.

† In 1731, Dr. Berkley, the celebrated Biſhop of Cloyne, wrote a Poem upon the future greatneſs of America, concluding with the following ſublime and beautiful lines:

Weſtward, the courſe of Empire bends her way;
The four firſt acts, already paſt;
A fifth, ſhall cloſe the Drama with the day;
Time's nobleſt offspring—is the laſt.

by

by the abſurdity of our political conduct, that a combination of ability ſhall direct the Senate, and not a mere capricious arrangement of juvenile connections: for, it is a melancholy truth, that the underſtandings of men and the public taſte in this country have retrograded for the laſt twelve years; and men have diſcovered that the high road to office and preferment under the preſent ſyſtem, is bowing at the levees of miniſters,* and being the foremoſt example in the vaſſalage of miniſterial ſervility; and not by the improvement of their minds, and the acquiſition of conſtitutional learning and information.

Men of the moſt ſhallow underſtandings ſooneſt find out that, according to Sir William Temple's rule, "the whole art of a court conſiſts in ſerving "the preſent turn, and ſpeaking the preſent lan- "guage," and where a blind ſubſerviency is all that is required—men of the dulleſt intellect generally ſucceed beſt, leave genius and ability far behind, and diſtance them in the race of preferment.

The diplomatic appointments that have lately prevailed; the extreme and almoſt incredible ignorance that has led to the preſent calamitous ſtate of our affairs; and the fatal deluſions we have patiently ſubmitted to, from thoſe mercenary allies who have ſo completely fooled us out of our money; is a well-founded, but deplorable juſtification of theſe melancholy aſſertions.

But as this digreſſion (which may ſerve at leaſt to diverſify a ſerious ſubject, and, perhaps, to amuſe our readers) might lead too far; we ſhall haſten to a CONCLUSION, and detail, in the next chapter, ALL the inſtances where theſe iſlands have

* This ſcience of riſing in the world, by mere ſervility, is admirably painted in the character of Sir Archy Mac Sycophant, in the Man of the World; where he tells his ſon, that all his preferment was owing to *bowing* and *bowing*; and that he never could ſtand ſtraight, in the preſence of a great man.

been

been legiſlatively united; and all the precedents when it has been in the contemplation of Parliament; as well as the merits of ſome intereſting treatiſes, upon the important ſubject of the incorporation of Great Britain and Ireland.

CHAP. IV.

Of Precedents of the Legiſlative Union—Propoſitions in Parliament—and Treatiſes upon the Incorporation of Great Britain and Ireland.

HAVING conſidered the privileges of the Iriſh Parliament, in different periods, from its commencement in the ninth year of Edward the Second, as well as the reflections of the Earl of Egmont, and offered a valedictory tribute to public welfare: we ſhall proceed to fulfil the promiſe at the commencement of this work, to relate thoſe inſtances where a legiſlative union has prevailed; ſecondly, where it has been in parliamentary contemplation; and thirdly, to notice briefly thoſe treatiſes, in which that important conſideration has been diſcuſſed.

In the firſt diviſions of this conſideration, the author flatters himſelf that he ſhall ſatisfy the curioſity of thoſe readers, who ſhall favour this laborious compilation with their attention, as the materials have been collected from notes of the Journals of the two Houſes in both kingdoms, which it was indiſpenſably neceſſary to conſult throughout, to compile a laborious work, which has been favourably received by the public.*

Upon the third conſideration, the author fears his reflections will be ſcanty and ſuperficial; upon

* Twelfth edition of Blackſtone, by Mr. Chriſtian, vol. i. p. 104.

ſuch treatiſes as have fallen in his way, he ſhall, however, riſk a ſhort diſquiſition; premiſing, that he conceives himſelf by no means equal to exhauſt this part of the ſubject, nor to form a deciſive opinion upon a matter of ſuch importance; having elſewhere riſked an opinion upon it, he ſhall refer his readers to that conjecture,* and proceed to a brief narrative without farther preliminary.

It has been already related in the firſt chapter of this work; that according to the opinions and authority of Sir John Davis, and the Chancellor Euſtace, in their ſpeeches; the one in 1613, and the other in 1640, as Speakers of the Houſe of Commons;—before the ninth year of Edward the Second, England and Ireland were repreſented by one legiſlature.

Though a charter paſſed in the fifth of Edward the Third, for holding Parliaments every year in Ireland; yet probably it was found inconvenient in ſome turbulent periods to convene thoſe aſſemblies; and ſometimes it was thought expedient, notwithſtanding that general charter, to ſummon repreſentatives from Ireland to Weſtminſter.

Of a convention of ſixty-eight members, conſiſting of two proctors or delegates from thirteen biſhopricks, twenty repreſentatives for counties, and twenty-two for cities, Dr. Leland has preſerved a very extraordinary account in the forty-ninth year of Edward the Third, with the record of their ſummons, returns, powers, &c. in the appendix to the firſt volume of the Hiſtory of Ireland.

It is true, Dr. Leland ſeems to doubt, whether this could be called a parliamentary delegation from Ireland; as in many caſes the members were reſtrained from impoſing taxes, without conſulting their conſtituents: but this argument certainly does not apply to ancient repreſentatives, who originally were

* In the Letters of Themiſtocles, printed by Hookham, Bond Street, p. 213.

accuſtomed

accuſtomed to conſult their principals and conſtituents, as to the quantum, mode of levies, and duration of ſupplies. Of this cuſtom, many inſtances are preſerved in Ryley's *Placita Parliamentaria*; and the Lord Chief Baron Gilbert aſſigns this as the true reaſon in early times of the Commons originating money bills, and their claim that they ſhould not be altered by the Lords and by the Crown; becauſe that would be a violation of a compact, which they had antecedently made with the people.

The foregoing delegation is a near approximation to that repreſentation by counties, which in early times was the practice in Ireland, according to the Chief Baron Gilbert,* (though he does not aſcertain when that mode of repreſentation ceaſed there;) and in England, there was a county repreſentation only, till the twenty-third year of Edward I. (in 1295) when, according to Dr. Brady, the boroughs were *firſt* enabled to ſend Members to Parliament.†

This was the model of Cromwell's Parliaments, in 1654, and in 1656, in which great towns, alſo, amongſt others, Leeds and Halifax were repreſented: and this leads to ſpeak of the third inſtance of the legiſlative incorporation of Great Britain and Ireland.‡

The four union Parliaments in the two protectorates, muſt give a ſtupendous idea of that wonderful man, Oliver Cromwell, who could thus unite the three kingdoms in one legiſlature, by an ordinance made, if we may uſe the expreſſion, with a ſtroke of his pen. Having elſewhere enlarged upon this ſubject, we ſhall expatiate no farther upon thoſe aſſemblies, of which accurate liſts are preſerved in Browne Willis's *Notitia Parliamentaria*.

* Gilbert's Exchequer, p. 58.
† Brady's Hiſtory of Boroughs, p. 54.
‡ Hiſt. Iriſh Parliament, Vol. ii. p. 244.

In this Parliament the navigation act was made, which originally compriſed the whole commonwealth, except Nevis, Barbadoes, and Montſerrat; and thoſe iſlands, which continued attached to the king. Scotland and Ireland were of courſe included, and it was narrowed after the Reſtoration to England alone: diſtinctions that have ceaſed in a great meaſure, it is believed, with regard to Ireland.*

The duties, cuſtoms, and exciſes were equaliſed in 1656 in the three kingdoms. The mode which Oliver Cromwell adopted, was to inſert a ſhort propoſition in an act, preſerved in Scobell's collection, "viz. that the duties, &c. ſhould be the ſame "in both kingdoms," and commiſſioners were appointed to arrange the books of rates accordingly.

Thoſe who remember the famous Iriſh propoſitions in 1734, and the puzzling mode of carrying that heterogeneous ſyſtem into execution, or read them now as an hiſtorical detail in the continuation of Anderſon's admirable compilation; will be ſurpriſed, not only at the difference of carrying ſimilar meaſures into execution; but ſtill more aſtoniſhed when they are appriſed that this precedent, ſo applicable and ſo analogous, was mentioned *firſt* in the Iriſh Parliament, when the whole ſyſtem had been rejected.†

This circumſtance, however odd, may appear ſtill leſs extraordinary than the appropriation of a ſurplus of the Iriſh hereditary revenue to naval purpoſes in England; from a fund which had already been ap-

* Impartial Reflections upon the equalization of the duties between Great Britain and Ireland, by Lord Mountmorres. Printed by Almon, 1784, p. 44, and p. 64.

† This circumſtance was mentioned firſt in a ſpeech in the Houſe of Lords, upon an addreſs to the Duke of Rutland, September 5, 1784, which concluded that long ſeſſion. Formerly, the Iriſh ſeſſions always terminated with an addreſs to the viceroy, of which cuſtom this addreſs in 1784 was the laſt example.

propriated

propriated by an Iriſh law to the protecting and guarding the ſeas.*

After the reſtoration, a Parliament was convened in Ireland for effecting the act of ſettlement, as it was emphatically called: Sir Heneage Finch, the Attorney General (afterwards the great Lord Nottingham) having given it as his opinion, that Engliſh laws were only valid, ſo long as they were acquieſced in by the people of Ireland; but that an Engliſh law might be repealed by an Iriſh act of Parliament; and conſequently that the ſafer method was to carry the ſettlement of Ireland into execution, by the Iriſh legiſlature.

Till the year 1666, when this Parliament was unfortunately diſſolved, the Iriſh, enjoyed ſimilar privileges with the Engliſh Parliament, privileges which were dormant till the memorable year of 1780; and hence it appears how neceſſary it is to thoſe who would form a true and juſt opinion of the Iriſh conſtitution, to be converſant with the tranſactions of the Iriſh Parliament before 1666.

If an hiſtorical map could be made, and a palpable chart delineated of the Iriſh Parliamentary privileges, at different periods, (a ſcheme carried into complete effect in matters of arithmetical calculation, by the ingenious Mr. Playfair) the hiſtory of the Iriſh le-

* The laſt, or the 20th of the Iriſh propoſitions, viz. "that the "appropriation of whatever ſum the groſs hereditary revenue of "Ireland ſhall produce (due deductions being made) over and "above the ſum of 650,000l. annually, towards the ſupport of "the naval force of the empire, to be applied by the Parliament "of Ireland; will be a ſatisfactory proviſion towards defraying, "in time of peace, the neceſſary expenſe of protecting the trade "of the empire."

Forms a curious contraſt

With the 14th and 15th of Charles II. c. 9, Iriſh ſtatutes, vol. ii. p. 420, by which the above hereditary revenue was principally granted, or rather the words of the preamble of the act of tonnage and poundage, as it is called, "for the better guarding of the ſeas "againſt all perſons intending the diſturbance of the trade of "your Majeſty's realm, and for the better defraying the neceſ-"ſary expenſe thereof."

giſlature would reſemble that river in Ovid, whoſe courſe was brilliant, till it ſunk and run under ground for a conſiderable way; but emerged again in another quarter with the ſame clearneſs and luſtre; and thus the courſe of the hiſtory of the Iriſh Parliament till 1666, and its ſequel from 1780, are equally brilliant; while the intermediate ſtream is buried in obſcurity, and loſt in the ſubterraneous darkneſs of miniſterial vaſſalage.

After the Revolution, four ſeſſions of Parliament were held in the reign of King William; their convention was inconvenient, and their privileges curtailed; it ſeems to have been the policy of the miniſters of that prince, to bring the affairs of Ireland before the Engliſh Parliament, and to encourage the great officers of ſtate in Ireland, to be members of the Houſe of Commons of England; amongſt the reſt, the Iriſh Chancellor, Sir Charles Porter, appears to have been an active member of that aſſembly.*

When Parliament met on the 29th of September, 1703, after an interval of five years, Ireland was reduced to the loweſt ebb, and the people of that country almoſt to deſpair; but when the laſt Duke Ormond, after his glorious actions at Vigo, was appointed Lord Lieutenant, their ſpirits revived, from the memory of the deſerved popularity of his grandfather, of the virtues and patriotiſm of that illuſtrious friend of his country. A letter was written to him by way of addreſs, ſigned by all the Lords preſent, containing theſe words: "Your Grace's "appointment alone, could in this conjuncture of "difficulty and diſtreſs, compoſe the minds of the "people, and revive their hopes, that ſome relief "is intended for them."

A committee was ſoon after appointed upon the ſtate of the nation; and the report made upon the the 25th of October, 1703, by Lord Mountjoy, was as follows:

* Grey's Debates, vol. x. p. 331.

"Re-

" Reſolved, upon due conſideration of the preſent " condition of the kingdom, that ſuch an humble " repreſentation ſhould be made to the Queen, of the " ſtate and condition thereof, as may beſt incline her " Majeſty, by ſuch proper means as to her Majeſty " ſhall ſeem fit, to promote ſuch an *union* with Eng- " land, as may qualify the ſtates of this kingdom to " be repreſented in the Parliament of England."

The Commons did not, however, join in this repreſentation; and though this reſolution was ſubmitted to the Queen, it produced no effect.

After the Scotch union, when the Iriſh Parliament aſſembled on the 7th of May, 1709, in the addreſs to the Lord Lieutenant, the Earl of Wharton, from the Houſe of Lords; they ſtate as follows:

" We are ſenſible her Majeſty may, with juſ- " tice, account it to be one of the greateſt glories of " her reign, to have brought to paſs the union of her " ſubjects of Great Britain; and on this occaſion, we " beg leave to hope, in due time her Majeſty will " perfect this great work, by bringing the people of " Ireland alſo into the *union*; and we depend upon " your Excellency's good offices, that as you have " been ſo conſiderable an inſtrument in effecting the " one, you will likewiſe contribute your good offices " in accompliſhing the other."

The Earl of Wharton in his anſwer, after returning thanks, and recommending the adoption of the moſt rigorous additional laws againſt the Roman Catholicks, a ſyſtem of perſecution unhappily too ſoon adopted and carried into effect, ſays, ſhortly, " as " to what your Lordſhips mention about bringing " this kingdom into the *union*, I have no direc- " tions from her Majeſty to ſay any thing upon that " ſubject."

In this deſire it does not appear that the Houſe of Commons concurred, for which purpoſe, as well as in the laſt caſe, their records have been ſtudiouſly examined: theſe are the only inſtances where a legiſ-

legiſlative union has actually obtained, or been in parliamentary contemplation.

It remains now, that we ſhould give a ſhort account of thoſe treatiſes that have fallen in our way, where this important ſubject has been diſcuſſed, repeating, however, that the author does not think himſelf equal to detail the whole of this part of the ſubject, as his information has not been ſo copious as he *could* deſire.

In the year 1751, a very elaborate pamphlet appeared upon the ſubject of the union, it was generally attributed, and it is believed by the author, to have been the production of a nobleman then high in office, and deſervedly valued by his countrymen, whoſe labours in her ſervice will for ever entitle him to a diſtinguiſhed place among the beſt friends of Ireland,

This treatiſe having been preceded by a ſpeech in the Houſe of Lords of Ireland, of the late Marquis of Downſhire, in favour of the *union*, brought this queſtion once more eminently forward in public contemplation,

The publication contains a plan for the repreſentation of Ireland, if the two kingdoms ſhould be incorporated; which was ſhortly as follows:

Counties and cities only were to be repreſented by one hundred members, one third of the preſent number of the Houſe of Commons of Ireland. A third part of the Peers were to be ſelected, choſen like the ſixteen Peers for Scotland, but to ſerve for life.

The author of this treatiſe ſtates a difficulty, that did not occur in the Scotch union relative to the hierarchy; but he ſolves this embarraſſment with ſome pleaſantry, by ſaying, that upon better reflection he was well perſuaded, that no worldly conſideration could induce any of the two and twenty Iriſh Biſhops to reſide in London for any length of time, and abandon their flocks; and, there-

therefore, that they would voluntarily relinquiſh any claim to a ſeat in Parliament.

The year 1780 will form the moſt memorable epoch of Iriſh proſperity; from which time Ireland has been rapidly thriving and conſtantly improving. This æra may be conſidered as the great criſis for the annihilation of commercial prejudices; before that time, it was ſuppoſed by Davenant, and by many great commercial writers, that if Ireland obtained a free trade, it would ruin the commerce of England; it was by mere chance and neceſſity, that the Engliſh merchants diſcovered that both countries might thrive, without injury to the trade of either; and that the market of the univerſe was wide enough, as well as ſufficiently ample and comprehenſive for both kingdoms.

The Parliament of Ireland, in reſolving that nothing but a free trade could ſave that country from utter and impending ruin; inculcated a great truth, and aſked for nothing but the common benefits of nature; ſimilar to the requeſt of the ancient philoſopher to the conqueror of the world, to ſtand from between him and the ſun.

It was not ſuppoſed that Ireland would have carried her point at that time; when the firmneſs and reſolution of Parliament ſtruck that *rock*; from whence the waters of exiſtence flowed, to a thirſty and to an expiring people; and that period ſwarmed with various ſpeculations upon the general intereſts and peculiar ſituation of Ireland.

But one of them, entitled a Philoſophical Survey of the South of Ireland, deſerves to be reſcued from the wreck of time, and that oblivion which uſually attends mere pamphlets or temporary publications.

The author of this entertaining work (Dr. Campbell) writes not only as a ſcholar, but as a gentleman, a legiſlator, and a politician: his remarks are novel, but juſt;—even to thoſe who know the

common tracks and beaten roads of that country, he diverſifies and ornaments their ordinary progreſs, by happy digreſſions, by well-founded obſervations and illuſtrations.

This work is, however, evidently calculated, and tends ultimately to recommend a legiſlative union with England. Warm and enthuſiaſtic upon the ſubject, Dr. Campbell conſiders the advantages of a union as an obvious, a great, and a ſelf-evident truth; highly advantageous, mutually beneficial; promoting the ſtrength, wealth, trade, and happineſs of both kingdoms; while it would conſolidate the intereſt, as well as augment and center, in one great maſs, the general power and permanent felicity of the empire.

At the termination of the act relative *to* the *Iriſh* propoſitions, the late Lord Sackville made his *laſt ſpeech* in favour of a union: his great abilities, and his knowledge of Ireland, where he had been prime miniſter in the critical ſeſſions of 1751 and 1753, gave weight to his condemnation of that heterogeneous ſyſtem; and to his recommendation of a legiſlative union, as the *unum deſiderabile*; the cure of every preſent, real, or ſuppoſed grievance, and the ſole remedy againſt future diſcontents and altercations.

Upon that occaſion, the pen of the modern Caſſandra, the ingenious, learned, and benevolent Dean of Glouceſter, was alſo employed, for the *laſt time*: he conſidered the ſyſtem as productive, if it ſhould be adopted, of endleſs diſputes and unceaſing controverſy between theſe kingdoms; and recommended a legiſlative union, as the only method to promote mutual proſperity; provided it were propoſed upon juſt and equitable terms, reciprocally honourable and advantageous; confeſſing, with his uſual candour and ingenuouſneſs, that many prejudices were to be conquered in England and Ireland: but that truth would at laſt make her own way,

and

and ultimately, though ſlowly, perhaps, produce that event, which he conſidered to be in the womb of time; the legiſlative union of the two great remaining members of the Britiſh empire.

The republication of that voluminous work, the Hiſtory of the Scotch Union, by Daniel De Foe, encouraged by ample compenſation, and ſuppoſed to have been countenanced by high patronage and authority, has ſerved, with many ſmall pamphlets that have occaſionally ſwarmed in Ireland, to keep this ſubject alive in public contemplation.

It is very remarkable, that the celebrated De Lolme has gleaned ſuperficial materials for the introduction, from general hiſtories of Ireland; he concludes with extracts from newſpapers and magazines; and applies the precedent of the Scotch union to the exigency of the ſtate, and the peculiar caſe of Ireland: but, though he writes without citing any one of the foregoing *caſes*, (which are certainly, whatever their merits or defects may be, with regard to the ſubject, collected now for the firſt time in one point of view) yet it is impoſſible not to render him the teſtimony that belongs to his ingenuity; and that praiſe which we beſtow upon plauſible ſpeakers, in certain great aſſemblies; who talk with plauſibility upon all ſubjects, whether they underſtand them or not; and round a period for the ear at leaſt, if they convey no new idea nor any information to the underſtandings of their audience.

Whether this ſubject has or has not been in ſerious contemplation, whether it is likely to take place, whether it is reſerved for happier, better, and more tranquil ſeaſons; when miniſters ſhall be relieved from wars, and exterior conſiderations, and more at liberty to turn their thoughts to domeſtic welfare and internal arrangements; the author ſhall avoid giving any deciſive opinion upon a queſtion, as a politician or as a member of Parliament, far beyond the reach

of his information or the compaſs of the underſtanding of a plain and ordinary man; and ſhall conclude this diſſertation with the general wiſh, that if ever it ſhould be propoſed, it may be effected upon juſt, equitable, and reciprocally advantageous terms; when neither the permanent intereſts of individuals ſhall be overlooked, nor the general welfare of the community, in both kingdoms; ſince in imperial concerns, nothing that is partial and unjuſt can be laſting, or, in fact, politic, or expedient.

To the Appendix of this compilation, containing the orders of the Houſe of Lords, it may not be irrelevant to premiſe one comment upon the order which will appear in the following ſeries, as the 95th rule, and which forms the 124th order upon the Engliſh roll; accompanying it with a Parliamentary anecdote of a ſincere and warm friend to his country, and a late diſtinguiſhed ornament of the Iriſh ſenate.

When the orders were reviſed in 1783, and claſſed in their preſent form, the author was preſſed by the late Marquis of Downſhire, to propoſe an alteration in the above rule, relative to limiting the reception of appeals from the inferior courts from *five* to *one* year; or, if poſſible, to limit their reception, to the next ſeſſion of Parliament.

The noble Lord added, that he wiſhed that he would inform himſelf of the reaſons upon which that limitation was grounded; of which, he ſaid, he was not appriſed, though he had examined the Engliſh Journals for that purpoſe.

The author at that time was ſo unacquainted with the ſubject, and ſo doubtful of his own capacity and weight, to diſcuſs the point, that he waved it altogether; but he now ſubjoins a comment upon that order which chance and ſubſequent information have afforded; and thus, in ſome ſort, complies with the deſire of the Noble Lord, who is no more; as it proceeded from one who always

had the warmeſt attachment to the aſſembly to which he belonged, and to the general welfare of Ireland.

This order was made in conſequence of an appeal from Chancery, the 28th of February, 1725, in the caſe of Sir John Ruſhout, upon a decree made in the year 1716, nine years before that time: ſome difficulties occurred relative to his obtaining relief, from accounting for the purchaſe of certain lands, and putting their order in execution, after ſuch a lapſe of time. The order was framed, and the limitation of FIVE years adopted, when, it is apprehended, no boundary exiſted before: but it cauſed three long debates, and Lord Lechmere, ſo much diſtinguiſhed in that aſſembly about that period, proteſted againſt the limitation.

If ever the propoſition of the Noble Lord ſhould be adopted, (and whether it may or may not be expedient, will not be diſcuſſed here) it would certainly tend, in a certain degree, to the limitation of litigations.

Reforms are, at this formidable criſis, to be adopted, or even propoſed with caution, and touched with a trembling hand; but thus much is certain, that to take away uſeleſs and grievous excreſcences, is the beſt method to preſerve the conſtitution entire; that the abridgment of the number, expenſe, tedioufneſs, and uncertainty, of litigations, would be a great bleſſing to the community.

The limitation of law-ſuits, and confining their duration to one year, has been deemed a maſterpiece of policy in the Frederician Code; and it reflects the greateſt honour upon the ſagacious labours of Frederick the Great.

While the ſyſtem of Aſtregues, or references to arbitrators, in cauſes of the higheſt import, has been greatly eſteemed and conſtantly admired and

ſup-

ſupported, even in litigations between ſovereign princes, in the Germanic conſtitution;*

While we condemn the various conſtitutions, thoſe impracticable ſyſtems which the laſt four years have engendered in France, if an exception, in ſuch a caſe, may be permitted to a general rule; we may be allowed to approve that policy in the conſtitution of 1791, which extends arbitrations to *all caſes*, real as well as perſonal; and prohibits the awarding a proceſs, or the permiſſion of commencing a law-ſuit, unleſs the plaintiff ſhall prove that he has offered an arbitration, and nominated an arbitrator, which has been refuſed by the defendant.

This reform (if we may believe his formidable adverſary, General Ludlow) Oliver Cromwell had much at heart; and a committee was actually employed upon this ſubject, in one of his Parliaments, in labouring to weed, and take away certain excreſcences in our juriſprudence: a circumſtance that reflects no ſmall honour upon his memory, though he was foiled in his wiſhes, and though the lawyers dexterity was too hard for Cromwell himſelf.

If better authority is wanting, and more conſtitutional periods, to warrant ſuch concluſions, and the opinion that ſuch reforms would be ſalutary; the labours of Lord Somers upon this ſubject are to be traced in the Journals, when he preſided in the Houſe of Lords; deſigns, that reflect additional honour upon that legal luminary; crown his memory with unfading laurels, and conſecrate and tranſmit his name, with veneration, to an enlightened and an applauding poſterity.

* Pütter's Hiſtorical Developement of the Germanic Conſtitution, v. ii. p. 357.

APPEN-

APPENDIX.

THE

STANDING ORDERS

OF THE

HOUSE OF LORDS,

Transcribed from a Copy printed by Authority,

11th FEB. 1790,

ACCURATELY COMPARED

WITH THE

LEADING CASES,

THE

DATES AND CAUSES OF THEIR ORIGIN, CONSTRUCTION, AND APPLICATION,

Extracted from the

JOURNALS OF PARLIAMENT

IN

GREAT BRITAIN AND IRELAND.

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PRELIMINARY.

UPON the revival of the appellant jurisdiction, in 1782-3, which had been suspended from 1719, by an English act of parliament; the Lords of Ireland revised their standing orders.

The corresponding form, in which they *now* appear, where articles of the same tenor are classed, and follow each other, was the work of a committee which sat for three months.

The labour fell principally upon the archbishop of Cashel and the author; the House were pleased to adopt the present arrangement, and to honour their labours with their approbation.

Of one hundred and thirty-one orders on the roll of the English standing orders, seventy-nine have been adopted by the House of Lords of Ireland.

The English orders generally contain a short preface, with the leading case or reason of their construction; the Irish orders prescribe the rule, without any comment.

But, the present compilation, with the following remarks, will, it is hoped, display and trace the whole of the subject; because the figures in the margin denote the place in the corresponding order on the English roll, (which has not yet been printed by *authority,)* and the dates which follow the letters *E. O.* or *English Order*, relate to the place in the English journals, which have not yet been indexed.

These remarks are at one side of the page; and those in the other margin, cite those cases which originated, or explain the reason and practice of the rule in Ireland.

The Privileges of the Baronage, and the Judicature in Parliament, of the learned Selden, are compilations equal in authority to the orders or journals of the British Peers; because it appears by a report of a committee, prefixed to the

firſt work,* that they were compiled by the order, and publiſhed in 1621, under the ſanction of the Houſe of Lords.

In Ireland there are orders relative to aſſumed titles; to cuſtody; to bills about the Peerage, originating in that Houſe; to ſeparate bills for private grants to individuals; which are not to be found on the Engliſh roll.

The well-known principle, that in all caſes where the voices are equal, the queſtion paſſes in the negative in the Houſe of Lords; is not to be traced on the Engliſh roll.

But, it is expreſſed in the 84th ſtanding order in Ireland, as explanatory of the rule for putting the queſtion for *reverſing*, and not for affirming decrees and judgments, upon appeals or writs of error.

The fifty-ſecond Engliſh ſtanding order, framed in January, 1689, has not been adopted in Ireland; and it is *now* of no importance, becauſe the trials of Peers in full Parliament have been legalized by ſtatutes in both kingdoms; in England, ſoon after the Revolution; in Ireland, by law in 1773-4, preſented by the Earl of Bellamont.

The moſt important of thoſe which have not been adopted in Ireland, relate to entries of pedigrees, and proofs of genealogies in the Herald's Office, framed in 1767, which have not yet been tranſcribed on their roll, and are only reſolutions on the Journals of the Lords of Ireland.

Some others, which have not been as yet adopted in Ireland, relate to reading bills only once in a day, to local and peculiar matters, ſuch as preventing diſturbances when the King is preſent, and to ſettling eſtates in Scotland in private bills.

But two orders are of more importance, one relating to a precedence to be given to cauſes on days peculiarly appointed

* Seldeni Opera, Vol. III. p. 1473.

"The Lords of the ſub-committee for privileges, received of the hands of John Selden, Eſq. of the Inner Temple, *who*, by order of the Houſe, was to draw up a collection touching the privileges of the Peers of Parliament; a volume, containing theſe heads before mentioned, and in the ſame manner handled as before expreſſed. The number of heads are ſeven on the one hand, and thirteen of the other.

Dec. 6, 1621.

E. SHEFFIELD, W. SAY and SELE.
H. ROCHFORD, E. DENNY.
D. NORTH.

Upon a queſtion ariſing ſome time afterwards in the Houſe of Lords, relative to "Peers anſwering upon honour in the courts of law," Selden's collections were cited, quoted as having been made under their ſanction, and as books of an authority equivalent to their own records. *Lords' Journals*, Vol. III. p. 197.

for that purpoſe; the other relative to the protection of the works of noble authors.

This laſt is tranſcribed at length, becauſe it is curious in itſelf, and is rendered more ſo, by an anecdote in Dr. Johnſon's Lives of the Poets, relative to Pope, before this rule was adopted.*

113, *E. O. 31ſt January*, 1721.

"Notice being taken that the works, lives, and laſt wills of "divers Lords of this Houſe, had been frequently printed im- "perfectly after their deaths, without the direction or conſent "of the heirs, executors, and truſtees of ſuch Lords; it is "therefore reſolved and declared by the Lords Spiritual and "Temporal in Parliament aſſembled, that if after the death of "any Lord of this Houſe, any perſon preſumes to print, or "publiſh in print, his works, or any part of them, not pub- "liſhed in his life-time; or his life or laſt will, without con- "ſent of his heirs, executors, adminiſtrators, or truſtees, the "ſame is a breach of the privilege of this Houſe."

It is very remarkable that there are no regulations whatſoever to be traced in the ſtanding orders of the Houſe of Lords of Great Britain or Ireland, relative to proceedings on criminal caſes or impeachments.†

This is more extraordinary in England, where ſo many more inſtances of impeachments occur than in Ireland; the

* *Johnſon's Lives* of the *Poets*, Vol. IV. p. 91.

One of the paſſages of Pope's life, which ſeems to deſerve ſome inquiry, was a publication of letters between him and many of his friends, which falling into the hands of Curll, a rapacious bookſeller, of no good fame, were by him printed and ſold.

This volume, containing ſome letters from noblemen (Sheffield, Duke of Buckinghamſhire, Lord Landſdown, &c. &c.) Pope incited a proſecution againſt him in the Houſe of Lords, for a breach of privilege, and attended himſelf to ſtimulate the reſentment of his friends.

Curll appeared at the bar, and knowing himſelf in no great danger, ſpoke of Pope with very little reverence. "He has," ſaid Curll, "A "knack at verſifying, but in proſe I think myſelf a match for him."

When the orders of the Houſe were examined, none of them appeared to have been infringed. Curll went away triumphant, and Pope was left to ſeek another remedy.

† Perhaps the moſt obvious arrangement would be, to adopt the rule contained in the one hundred and twenty-fourth Engliſh order, and when impeachments may be depending, to hear criminal caſes on Tueſdays, Thurſdays, and Saturdays; as civil caſes are now to be heard on cauſe days, viz. on Mondays, Wedneſdays, and Fridays. On Mr. Haſtings's trial, the Lords ſat only one hundred and forty-nine days and therefore the longeſt impeachment might thus probably come within one Seſſion of *Parliament*, or two ſeſſions at fartheſt.

only

only cafes of that ſort to be traced in the Iriſh Journals (which have been noted in the Iriſh Parliamentary Hiſtory) are the impeachments of the Chancellor Bolton, of the Biſhop of Derry, the Chief Juſtice Lowther, and Sir George Ratcliffe, on the 27th of February, 1640-1.*

And alſo the accuſation of the Chancellor, Sir Charles Porter, in 1695-6, where the Houſe of Commons decided, that there were no grounds for an impeachment.

This compilation was originally deſigned for a ſecond impreſſion of the Hiſtory of the Iriſh Parliament; but, as that edition is not now in contemplation, and probably the author's avocations will not allow ſufficient leiſure for ſuch a laborious undertaking; this collection has been printed ſeparately, but it is contrived ſo that it may be bound up with, and form a uſeful addition to the Iriſh parliamentary hiſtory.†

* This was the longeſt impeachment before Mr. Haſtings's trial, in the annals of either Parliament, as it laſted from the 27th of February, 1640-1, to the 9th of April, 1644. *Hiſtory of the Iriſh Parliament*, Vol. II. p. 84.

It may not be inexpedient to remark here, that a very intereſting and ſatisfactory account has been given lately in the Annual Regiſter for 1791, juſt publiſhed, of the great queſtion of impeachments continuing from one Parliament to another, in caſe of a diſſolution. Hiſtory of Europe in the Annual Regiſter, for 1791, p. 64.

† Hiſtory of the principal Tranſactions of the Iriſh Parliament, from 1634 to 1666, by the Right Hon. Lord Mountmorres, F. R. S. 2 vols. octavo, printed for T. Cadell in the Strand.

RULES

RULES AND ORDERS, &c.

Dates of English and — *of Iriſh Orders, Caſes, &c.*

CHAP. I.

Beginning of the Parliament.

8 E. O. 1. THE firſt work commonly done either at the beginning of a Parliament or of a Seſſion, after prayers are ſaid is, that ſome bill *pro formâ* be read, and then a motion is to be made for a committee to be choſen out of the Houſe, which ſhall ſtand all the ſeſſions, to review the orders of the Houſe, and ſee from time to time that they be duly obſerved; as alſo for other ſtanding Committees of Religion, Trade, Privileges, and Grievances, &c. 2d Nov. 1692.*

12 E. O. 9th June, 1660. 2. *Form of Writs.*—If there be any difference in the form or ſtyle of the writs from the antient, it is to be examined how it cometh, and a ſtrict courſe taken for puniſhing for the time paſt, and for future amendment.

38 E. O. 27th July, 1663. 3. *Introduction of Peers.*—Reſolved, that all the Peers of this Realm by deſcent, being of the age of twenty-one years or upwards, may come and ſit in the Houſe of

* The reaſon of this date occurring ſo frequently was, that the Houſe of Lords of Ireland, reviſed and adopted a great part of their orders in 1692, when the firſt regular and *legal* Parliament was held, after the Revolution; after an interval of nearly twenty-five years from 1666; and the orders of that date followed each other chronologically on the roll, before the whole body was claſſed in the preſent correſponding arrangement, in 1783-4.

Peers,

I. Peers, without any introduction; no ſuch Peers ought to pay any fees to any Herald upon their firſt coming into the Houſe of Peers, neither ſhall they be introduced into the Houſe by any herald, or with any ceremony, though they ſhould deſire the ſame. *E.*

2d Nov. 1692. Caſes of Lord Aylmer, in 1777-8, and the Earl of Athlone, in 1795.

4. Upon the introduction of any Lord or Peer into this Houſe, that neither in his own perſon nor his anceſtors ſat there before; he is to be brought in his robes, attended by the King at Arms and Gentleman Uſher, ſupported by two of his own bench; and to bring his patent, or the inrollment thereof, and his writ along with him; and after he is ſworn and hath ſubſcribed, then he is to take his place.

9th Feb. 1784.

5. Reſolved, That every Peer of this Realm claiming by virtue of a ſpecial limitation in remainder, and not claiming by deſcent, ſhall be introduced. 89 E. O. 28th June, 1715.

2d Nov. 1692. Caſe of the Earl of Farnham, in 1791.

6. *Oaths and Subſcriptions.*—Every Lord, before he be admitted to ſit in the Houſe, is to take the oaths, and ſubſcribe the declaration, purſuant to the Act made in *England*, in the third year of the reign of our Sovereign Lord and Lady, King William and Queen Mary, intitled, An Act for abrogating the Oath of Supremacy in *Ireland*, &c. And by an Act paſſed in this kingdom in the 21ſt and 22d Geo. 3. ch. 48, intitled, An Act for extending certain of the Proviſions contained in an Act, intitled, An Act confirming all the Statutes made in *England*. And no Lord is to leave the ſervice of the Houſe, though with the leave of the Houſe, for above *ſeven* days, without leaving his proxy. 92 E. O. 19th March, 1678.

2d Nov. 1692. Obſolete.

7. *Reſpect to the Houſe.*—Before the Houſe ſit, ſo much reſpect is to be had to the room, that none but Members of the Houſe ought to be covered there, not ſo much as the 10 E. O. obſolete.

E. the eldeſt ſon of any Peer whatſoever, unleſs he be called by writ. Neither is any other perſon to ſtay there, or any attendant of any nobleman, but whilſt he brings in his Lord, and then he is to retire himſelf: I.

11 E. O. when the Houſe is ſat, every Lord that ſhall enter it to give and receive ſalutations from the reſt, and not to ſit down in his place until he has made his obeiſance to the cloth of ſtate. 2d Nov. 1692.

1 E. O. 8. *Order of Sitting.*—The Lords are to ſit in the ſame order as they do at his Majeſty's or his deputy's being there, except that the Lord Chancellor ſitteth on the woolſack, as Speaker to the Houſe, and the Lord Treaſurer on the Earl's bench.*. Caſe of Ld. Cork, the laſt efficient Lord High Treaſurer in 1666.*

7 E. O. 9. *Adjournment.*—At the beginning of the Parliament, before it be met, if the day be adjourned, it is done by writ, which is directed to both Houſes; and in that caſe the Houſe of Commons is to be called in, and to ſtand uncovered below the bar, but not before the Lords be all ſat, who ſitting and being covered, the Lord Chancellor uſed ſome words unto them to let them know the cauſe of their meeting, which he doth uncovered, becauſe he ſpeaketh to both Houſes, and after the writ read, he adjourns the Court. 2d Nov. 1692.

If it be an adjournment of a Seſſion only, it is done by commiſſion to ſome of the Lords of the Upper Houſe, in which caſe none of the Houſe of Commons are preſent; and the commiſſion is to be ſent down to the Houſe of Commons, upon ſuch adjournment performed by the Houſe of Lords accordingly.

10. *Rules and Orders to be read at the beginning of every Seſſion.*—For the better preſervation of order in this Honourable Houſe in their debates and proceedings upon ſuch buſineſs as comes before them, it is 2d Nov. 1692. This rule is generally obſerved in Ireland.

I. ordered, that the rules and orders of this House be publicly read in the House at the beginning of every Session, that so no man may transgress his duty for want of sufficient knowledge. *E.*

2d Nov. 1692. They were formerly signed by two Peers. The usage in the time of Lord Lifford, the late Chancellor, was to read the minutes before the rising of the House, on the same day.

11. *Journal Book.*—For the better preservation of the Journals of this House, it is ordered that a Committee be appointed by the House, at the beginning of every Session, to inspect, *revise*, and *correct* the Journals, before they be entered in the Journal-book, and that the *Minutes* of the preceding day be read in the House the day following, where the same have not been read the day before, by reason of a motion for adjournment. 91 E. O. 23d May 1678.

Practised in 1767, and in 1769.

12. *House to be called.*—It is to be observed, that in the first week of every Session the House is to be *called*, and notice taken of such Lords as have not appeared according to the writ or summons, or have departed the service of the House without leaving their proxy pursuant to a rule above mentioned, and the House to be *called over* as often as cause *requires*. 27 E. O. 28th June, 1715.

The Stat. of 26 H. 8. is not in force in Ireland. In the case of Lord Castle Stewart, in 1634. the Judges decided that the King could give precedence in Ireland.

13. *Precedency of Lords.*—For settling controversies that may arise between the Peers about precedency, it is thought reasonable that every Peer upon a new creation shall have place according to the time of his creation and the date of his letters patent; and every other ancient Peer is to hold his place and precedency according to his antiquity and creation. 86 E. O. 10th April, 1628, was grounded on the famous case of the Earl of Banbury.

Case of Ld. Annaly, in 1767, on the Death of Chancellor Bowes.

14. *Speaker of the House.*—It is the duty of the Lord Chancellor, or Lord Keeper of the Great Seal of Ireland, ordinarily to attend the Lords House of Parliament, and in case they or either of them be absent from the House of Peers, and there be none authorised under the Great Seal from the King to supply that place in the House of 3 E. O. 9th June, 1660.

E. Peers, the Lords may then chooſe their OWN SPEAKER during that vacancy. *I.*

2 E. O. 15. *Speaker's Office.*—The Lord Chancellor when he ſpeaks to the Houſe is always uncovered, and is not to adjourn the Houſe, or do any thing elſe, as the mouth of the Houſe, without conſent of the Lords firſt had, excepting the ordinary things about bills, which are of courſe, wherein the Lords may likewiſe overrule, as for preferring one bill before another, and ſuch like. And in caſe of difference amongſt the Lords, it is put to the queſtion, and if the Lord Chancellor will ſpeak to any ſuch thing particularly, he is to go to his *own place* as a *Peer*.

2d Nov. 1692. This order was infringed in 1769, in the memorable caſe of Lord Townſhend's Proteſt on the Prorogation.

20 E. O. 30th March, 1670. The latter part of this order is not practiſed, except on trials of Peers, and Impeachments. 16. *Order of Speaking and Votes.*—Every man ſpeaks ſtanding and uncovered, and names not the Members of the Houſe by their names, but the Lord that ſpoke laſt, laſt but one, laſt but two, &c. or by ſome other note of their ſpeech; at votes the loweſt (after the queſtion is once put by the Lord Chancellor) begins firſt, and every man in his own turn riſeth uncovered, and, and only ſaith, CONTENT, or NOT CONTENT.

14 E. O. When any Lord ſpeaks, he is to addreſs his ſpeech to the reſt.

45 E. O. 23d May, 1628. 17. *Orders to be read.*—The *clerk* is to read no *order* till the Lord Chancellor firſt demand the aſſent of the Houſe, and the clerk is to read every order firſt in the Houſe before it is entered.

In the caſe of Lord Townſhend's proteſt in 1769, this order alſo was infringed.

13 E. O. 18. *Order to be kept.*—The Lords in the Upper Houſe are to keep their dignity and order in ſitting as much as may be, and none to move out of their places, without juſt cauſe, to the hindrance of others that ſit near them, and diſorder of the Houſe; but when they muſt needs go croſs the

I. House from one side to the other, they are to make obeisance to the cloth of *state*. *E.*

2d Nov. 1692. 19. *Lords not to discourse together when the House is upon Business.*—If any Lord have occasion to speak to another Lord in this House, while the House is sitting, they are to go together below the bar, or else the Speaker is to stop the business in agitation. 18 E. O. March 30, 1670.

2d Nov. 1692. 20. *Asperity of Speech to be avoided.*—For preventing of misunderstanding, and for avoiding of offensive speeches when matters are debated either in the House or at Committees, it is for honour's sake thought fit that all personal, sharp, and reflecting speeches be foreborne; and whosoever answereth another man's speech, shall apply his answer to the matter, without wrong to the person; and as nothing offensive is to be spoken, so nothing is to be ill taken, if the person that speaks shall presently make a fair exposition, or clear denial of the words that might bear an ill construction: and if any offence be given in that kind, as the House itself will be very sensible thereof, so will it sharply censure the offenders, and give the party offended a fit reparation and full satisfaction. 15 E. O. 12, 13 June 1626.

2d Nov. 1692. 21. *Quarrels to be avoided.*—For avoiding all mistakes, unkindnesses, or other differences, which may grow to quarrels tending to the breach of peace, it is ordered, that if any Lord shall conceive himself to have received an affront or injury from any other member of the House, either in the Parliament House or at any Committee, or in any of the rooms belonging to the Lords House of Parliament, he shall appeal to the Lords in Parliament for his reparation; which if he shall not do, but occasion or entertain quarrels, declining the justice of the House, then the Lords 16 E. O. 9th August, 1641. N. B. At the breaking out of the great rebellion.

E. Lords that ſhall be found delinquent therein, ſhall undergo the ſevere cenſure of the Houſe of Parliament. I.

48 E. O. 28th May, 1624. 22. *Calling Members to the Bar.*—As to calling Members of this High Court to the bar, their Lordſhips hold it fit to be very well weighed, at what time and for what cauſes it ſhall be done. 2d Nov. 1692. This latter part of the order had been added by Ld. Strafford's influence, in 1634.

And therefore none are to be called to the bar but ſuch only who *ſhall expreſs* any reflections on their Majeſties or their *Chief Governor*, or againſt this Honourable Houſe, or any member of the ſame, or for ſuch other cauſe as the Houſe ſhall think fit.

23 E. O. 25th Nov. 1691. 23. *Proceeding on Bills.*—For bills, they are commonly let paſs *at the firſt reading*, without ſpeaking to, unleſs motion be made againſt the ſecond reading, in order to throw them out, and they are to be committed upon motion after the ſecond reading. 2d Nov. 1692. Hence a Lord may preſent a bill without aſking leave.

19 E. O. 30th March, 1670. No Lord is to ſpeak twice to one bill at one time of reading it, or to any other propoſition, unleſs it be to explain himſelf in ſome material point of his ſpeech, but to no new matter, and that not without the leave of the Houſe firſt obtained.

24. Reſolved, That all bills which any way affect the rights of *Peerage*, are to take their riſe in this *Houſe*. 9th Feb. 1784.

90 E. O. 2d March, 1664. 25. *Reſtitution in Blood.*—No act of reſtitution in blood ſhall be proceeded upon in Parliament until the ſame be firſt allowed by the King's Majeſty, and then it is firſt to begin in the Houſe of Peers. 2d Nov. 1692.

17 E. O. 9th Jan. 1673. 26. *Voting.*—When a queſtion has been entirely put by the ſpeaker; no Lord is to ſpeak againſt the queſtion before voting. 2d Nov. 1692.

After

I. 2d Nov. 1692. After a queſtion is put, and the Houſe has voted thereupon, no Lord is to depart out of his place, until the Houſe has either entered upon ſome other buſineſs, or upon conſideration of adjourning the Houſe. *E.* 21 E. O. March 13, 1690.

27. *Who are to go out upon dividing of the Houſe.*—When there ſhall be a diviſion in the Houſe upon any queſtion, the *contents* ſhall go below the bar, and the not-contents ſhall ſtay within the bar.* 22 E. O. 25th Nov. 1691. In England committees divide thus; in Ireland, from right to left, as in the Houſe of Commons.

28. *Concerning the Judges.*—The Judges ſitting by are not to be *covered*, until the Lords give them leave, which they ordinarily ſignify by the Chancellor; and they being appointed to attend the Houſe, are not to ſpeak, or deliver any opinion, until it be required, and they be admitted ſo to do by the major part of the Houſe; in caſe of *difference*, the learned counſel are likewiſe 4 E. O. 9th June, 1660.

* When the Houſe is divided, the not-contents are reckoned *firſt* in the Houſe, then the teller of that ſide; and laſtly, the Chancellor, or Preſident: ſo that he either cloſes the diviſion in the Houſe, or commences enumeration of the contents below the *bar*. The ſame rule prevails in committees in the Houſe of Lords of England; but in Ireland they have deviated from the ancient practice, and divide as in the Houſe of Commons, in *committees*. A Lord may withdraw under the cloth of eſtate; nor is he compellable to vote for himſelf or his proxy, as in the Houſe of Commons, when members are diſcovered within the precincts of the *chamber* of Parliament.

It is not neceſſary to divide the Houſe, that a Lord may *proteſt*. The Duke of Bedford, and four Lords, proteſted without a diviſion, in the Douglas cauſe; but, in ſuch caſe, it is conceived that it is not only courteous, but expedient, to aſk leave to proteſt from the Houſe.

In the Houſe of Commons, if two only ſhould divide againſt a majority, it would be recorded thus in the Journals:

Noes that ſtaid in -	100
The Ayes that went out	1

Should one Lord divide againſt a majority, it would be reported and entered thus in their records:

Not-contents in the Houſe	50
Contents below the Bar	1

as

E. wife to attend on the woolſack, but are never covered.* I.

29. *Officers and Attendants.*—The Uſher of the Black Rod is to wait without the bar, and there to *ſpeak* as occaſion is. The Serjeant at Arms is to wait without in the next room, and not to come in unleſs called.

115 E. O. 6th Feb. 1723. 30. Reſolved, that the clerks and inferior officers attending this Houſe, ſhall not be at any time ſuſpended, or diſplaced from their offices or employments, without the leave of this Houſe. 9th Feb. 1784.

31. *No Motion after Two of the Clock.*— No motion of any new matter ſhall be made in this Houſe after two of the clock, except it be within the orders of the day. Obſolete. 30th July, 1707.

Obſolete. 32. Ordered, That after the minutes are read, no other motion be made but that of adjournment. 19th Dec. 1713.

33. Reſolved upon the queſtion, *nemine contradicente*, that when any Lord ſhall at any time move for an addreſs, either to the King's Majeſty, Lord Lieutenant, or other chief Governor or Governors of this kingdom, if the motion ſo made ſhall ſpecify divers heads to be included in ſuch addreſs, no queſtion ſhall be put upon the whole at once; but that a queſtion ſhall be put upon each head in ſuch order as they ſhall be mentioned in each motion, to the intent that each Lord may have a ſufficient opportunity of offering his ſenſe touching the ſame, or any amendments he ſhall think fit to propoſe being made thereunto. 24th Sept. 1723.

34. *Mo-*

as was the caſe in 1794, of the Earl Stanhope. In the Commons, as a motion muſt be ſeconded, *one* member cannot divide; but *one* Lord may move, put a queſtion, and divide the Houſe.

* In the Engliſh Orders, thoſe Judges who are Privy Counſellors, are included; but this Order is ſeldom practiſed in either kingdom.

I. 30th July, 1707. 34. *Motions againſt Standing Orders.*—No motion ſhall be granted for diſpenſing with a ſtanding order of this Houſe, the ſame day the ſaid motion is made, nor before the Houſe ſhall be ſummoned to conſider of the ſaid motion. *E.* 104 E. O. 28th April, 1699. Generally in uſe; and upon this the efficacy of a ſtanding order depends.

2d Nov. 1692. 35. *Committees of the Houſe.*—To have more freedom of ſpeech, and that argument may be uſed *pro et contrà*, Committees are appointed for bills, ſometimes to facilitate and agree upon great buſineſs, either of the whole Houſe or of particular Committees of the whole Houſe, who ſometimes ſit in the Upper Houſe, but then the Lord Chancellor ſits not on the woolſack as Speaker. If they be of fewer number, commonly they meet in one of the committee rooms adjoining to the Houſe of Lords; any of the Lords of the Committee ſpeaks to the reſt uncovered, but may ſit ſtill if he pleaſe. The Committee are to be attended by ſuch judges as ſhall be appointed, who are not to ſit there, nor be covered, unleſs it be out of favour. For infirmity, ſome Judge ſometimes has a ſtool ſet behind him, but never covers; the reſt never ſit or cover. 28 E. O. 9th May, 1626.

2d Nov. 1692. 36. It is to be obſerved, that in any ſelect Committee of the Lords, any Member of the Lords Houſe, though not of the Committee, is not excluded from coming in and ſpeaking, but he muſt not vote; as alſo, he ſhall give place to any that are of the Committee, though of lower degree, and ſhall ſit behind them.

2d Nov. 1692. 37. *Committee of the Houſe.*—If it be deſired by any Lord that the Houſe may be put into a Committee, it ought not to be refuſed. Every Lord is to reſt in his own place when the Houſe is put into a Committee.* 28, 29, 30, E. O. 13th May, 1626.

38. *Meſ-*

* In the Iriſh Parliamentary Hiſtory, v. i. p. 106, the author has hazarded a conjecture upon the conſtruction of this order; involving an intereſting Parliamentary anecdote.

E. 38. *Meſſages.*---For meeting with any of *I.*
35th E. O. 5th April, 1707. the Lower Houſe, it is either upon occaſions of meſſage, which they ſend up, or upon conference when they come up. The manner is this: after the Lords have notice given them by the Uſher of the Houſe that they have ſent unto the Lords, they attend until the Lords have put that buſineſs to ſome end, wherein they are; and the Lords, ſitting all uncovered, ſend for them in, who ſtand all at the lower end of the room, and then the Lord Chancellor, with ſuch as pleaſe, riſe, and go down to the middle of the bar; then the chief of the Committee, in the midſt of them, and the reſt about him, come up to the bar, with three courteſies, and deliver their meſſage to the Lord Chancellor, who, after he has received it, retires himſelf to his former place; and the Houſe being cleared and ſettled, he reports it to the Lords, who help his memory, if any thing be miſtaken; and after the Lords have taken reſolution, if the buſineſs require any anſwer, they are called in, and approaching to the bar, with three courteſies as before, and the Houſe ſitting in order, and covered as before; the Lord Chancellor ſitting on the woolſack covered, does give them their anſwer in the name of the Houſe; or elſe, if the reſolution be not ſpeedy, the Lords ſend them word by the Uſher, that they ſhall not need to ſtay for the anſwer, but that their Lordſhips will ſend by ſome expreſs meſſenger of their own.

I. There is ſome difference between the Lords of England and Ireland, in this reſpect.

Conferences between the two Houſes in former times, have been attended with fatal conſequences in Ireland. Parliament was diſſolved in 1666, upon a trivial diſpute, at a conference, and they did not meet till 1692, in a regular and legal way; tho' James the Second held a Parliament in 1689-90, all whoſe acts were annulled after the Revolution.* Hiſt. of the Iriſh Parliament, v. ii. p. 179.

39. Here is to be noted, that the Lords never ſend to the Houſe of Commons any member of their own, but either by ſome of the learned Counſel, Maſters of the Chancery, or ſuch like, which attend, and in weighty cauſes, ſome of the Judges; nor are the Houſe of Commons ever to employ unto the Lords any but of their own body.

* Hiſtory of the Iriſh Parliament, v. ii. p. 194, 199.

I. 40. *Order of Meeting and Conference.*— E.
2d Nov. 1692. This alludes to Chichester House, before 1727, at which period the New Parliament House commenced, and was finished in 1731. The place of meeting with the House of Commons, upon conference, is usually the Conference Chamber, *below stairs*, between both Houses, where they are commonly before the Lords come, and expect the Lords leisure. The Lords are to come thither in a whole body, and not some Lords scattering before the rest, which both takes from the gravity of the Lords, and besides may hinder the Lords from taking their proper places. The Lords are to sit there and be covered; but they of the House of Commons are, at no committee or conference, either to be covered or sit down, unless it be some infirm person, and that by connivance, in a corner out of sight, but not covered. 36 E. O.

2d Nov. 1692. The last conference in Ireland was in 1737. 41. No man is to enter either when the whole House sits, or at any committee or conference, unless it be such as are commanded to attend, but such as are Members of the House, upon pain of being punished severely, and with example to others. None are to speak at a conference with the Lower House, but those that be of the committee, and when any thing that has been committed is reported, all the Lords of the committee are to stand up uncovered. Obsolete. 38-39 E. O.

Case of the Chancellor Porter, in 1695-6. 42. *Lords not to answer Accusations in the House of Commons.*—No Lord shall *either go down* to the House of Commons, or send his answer by writing, nor appear by counsel, to answer any accusations there, upon penalty of being committed to the Black Rod, or the Castle of Dublin, during the pleasure of the House; it being the privilege of the Lords to answer accusations in their own House. 50 E. O. 20th June, 1673. Case of the Duke of Buckingham, &c

18th Dec. 1775. 43. *Lords not to Petition the Commons without Leave.*—Resolved by the Lords Spiritual and Temporal in Parliament assembled, That

E. That every Lord of Parliament who ſhall at any time have occaſion to petition the Lower Houſe, ſhall firſt apply for leave of this Houſe. *I.*

65 E. O. 28th May, 1624. 44. *Privileges.*—All Lords of Parliament have privilege of freeing from arreſts their menial ſervants, and thoſe of their family, as alſo thoſe employed neceſſarily and properly about their eſtates, as well as perſons, for the ſpace of *forty* days before the beginning or meeting of a Parliament, and for forty days after prorogation or diſſolution of the ſame Parliament; and have alſo privilege of freeing the goods of ſuch perſons as aforeſaid from execution for the ſpace of fourteen days before any Parliament ſhall meet or be re-aſſembled, and likewiſe for fourteen days after the diſſolution or prorogation thereof. 2d Nov. 1692. altered by 11 and 12 Geo. III. ch. 12.

45. Of all incroachments and breaches of privileges, ſome ſtrict example ſhould be made at firſt, and records kept exactly both of all things to be obſerved, and of all puniſhments to be inflicted upon the breakers, to deter others, be it out of malice or negligence. Nov. 2, 1692.

46. All the Lords are to be very careful in this point, and to remember the ground of this privilege, which was only in reſpect they ſhould not be diſtracted by the trouble of their ſervants from attending the ſerious affairs of the kingdom, and that they will not therefore pervert that privilege to the public injuſtice of the kingdom, which was given them only that the whole realm might, in this court, draw the clearer light of juſtice from them; in which caſe every one ought rather to go *far* within, than any way exceed, the due limits. Before any perſon be ſent for in this kind, the Lord whom he ſerves ſhall, either by himſelf or by his letter, or by ſome meſſage, certify the Houſe upon his 2d Nov. 1692.

I. honour, that the perſon arreſted is within the limits of the privilege before expreſſed, and for the particulars they muſt be left to the judgment of the Houſe, as the particular caſes ſhall come in queſtion, wherein the Houſe wants not all means, as well by oath as without, to find out the true nature of the ſervants quality, in the Lord's ſervice; and, therefore, if by the Houſe it be adjudged contrary to the true intent, any Member whatſoever muſt not think it ſtrange if in ſuch caſe both he himſelf ſuffer reproof as the Houſe ſhall think fit, and the ſervants receive no benefit by the privilege, but pay the fees; becauſe the juſtice of the kingdom muſt be preferred before any perſonal reſpect, and none to be ſpared that ſhall offend after ſo fair a warning. *E.*

24th Dec. 1747. Caſes of Earl of Roſs in 1747, and Earl of Aldborough in 1779-80.

47. Reſolved by the Lords Spiritual and Temporal in Parliament aſſembled, That in caſe of complaint of any Lord of this Houſe of a breach of privilege, whereupon any perſons ſhall be ſummoned as delinquents, or taken into cuſtody for the future, if the Houſe, upon examination of the matter complained of, ſhall judge the ſame to be no breach of *privilege*, and that the complaint was groundleſs, the Lord who made the complaint ſhall pay the fees and expenſes of the perſon or perſons ſo ſummoned or taken into cuſtody. 78 E. O. 11th Jan. 1699.

9th Feb. 1784.

48. Reſolved, That no Peer or Lord of Parliament hath privilege of Peerage or of Parliament againſt being compelled by proceſs of the King's courts to pay obedience to a writ of *habeas corpus*, directed to him. 125 E. O. 8th June, 1757.

2d Nov. 1692.

49. *Lords to anſwer upon Honour.*—The Nobility of this kingdom, and Lords of the Upper Houſe of Parliament, are to anſwer in all courts of ancient rights as defendants, 70 E. O. 8th May, 1628.

E. fendants, upon protestation of honour only, and not upon common oath.* I.

93 E. O. 22d May, 1685. 50. *Minors.*—No Lord, under the age of twenty-one years, is to be permitted to sit in the House of Lords. 2d Nov. 1692.

74 E. O. 12th Nov. 1685. 75 E. O. 29th April, 1699. 51. *No Privilege of Peerage to Trustees.*—No privilege of Parliament ought to be allowed unto Peers; in those cases wherein they are concerned as trustees only.

76 E. O. 21st Feb. 1692. 52. *Minor Peers, Noble Women, and Widows of Peers.*—Privilege of Parliament shall not be allowed to minor Peers, noble women or *widows* of *peers*, saving their right of peerage; and if any widow of any Peer shall marry a Commoner, she shall not be allowed privilege of peerage. 30th July, 1707. Case of the Countess of Roscommon, in 1697.

49 E. O. 18th April, 1626. 53. *Imprisonment of Lords.*—The privilege of the House is, that no Lord of Parliament sitting, the Parliament, or within the usual time of privilege of Parliament, is to be imprisoned or restrained, without sentence or order of the House, unless it be for treason, felony, or for refusing to give security for the peace. 2d Nov. 1692.

Case of the Earl of Bristol.

66 E. O. March 24, 1696-7. 54. *Attornies and Solicitors, no privilege.*—No common attorney or solicitor, though employed by any Peer or Lord of this House, shall be allowed *privilege of Parliament.* 30th July, 1707.

The 120th E. O. 55. *Privilege.*—Resolved upon the question, *nemine contradicente*, That no Lord of 16th Dec. 1717.

* Peers are privileged to answer upon honour *only* in bills in the Courts of Equity; in all other cases, civil and criminal, their attestation must be upon *oath:* even in the High Court of Parliament, a Peer giving evidence, must be sworn; as in the case of the Bishop of Oxford, in Lord Macclesfield's; and of the present Earl of Mansfield, in Mr. Hastings's impeachment: 12th edition of Blackstone's Commentaries, by Mr. Christian, v. i. p. 409.

Par-

I. Parliament, having once obtained the leave of this Houſe to wave his privilege in any cauſe, ſhall at any time after be admitted to re-aſſume his privilege in the ſame cauſe, without the leave of this Houſe. *E.* 17 March, 1730, enjoins that a waver of privilege muſt be in perſon, or by writing.

23d Sept. 1721. Caſe of Earl of Roſs, in 1747. 56. Reſolved, That no written protection from any Lord Spiritual or Temporal ſhall be hereafter valid or allowed. 67 E. O. 15th April, 1712.

2d Sept. 1721. 57. It was reſolved on the queſtion, *nemine contradicente*, That if any Lord Spiritual or Temporal ſhall grant a written protection, in contempt of the foregoing reſolution, to the diſhonour of the Houſe, the Lord ſo offending ſhall, for his offence, be committed priſoner to the Uſher of the Black Rod, or the Conſtable of the Caſtle of Dublin. Explained by the 116 E. O. 25th Feb. 1723.

22d Dec. 1737. 58. Reſolved, *nemine contradicente*, That the filing an original bill in any court of equity, is not a breach of the privilege of this Houſe. 73 E. O. 14th Dec. 1696.

2d Nov. 1692. 59. *Witneſſes to be examined, in Perpetuam Rei Memoriam.*—In all caſes wherein it is neceſſary to examine witneſſes *in perpetuam rei memoriam*, it ſhall not be taken to be a breach of the privilege of Parliament to file a bill againſt a Peer in time of Parliament, and take out uſual proceſs for that purpoſe only. 72 E. O. 3d July, 1678.

6th Feb. 1758. These four orders were moved by the Earl of Clanbraſſil, in conſequence of a diſpute about Precedence, between Lady Kenmare and Lady Ann Dawſon, ſiſter to the Earl of Pomfret, at the Caſtle of Dublin. 60. *Titles of Honour aſſumed.*—Reſolved by the Lords Spiritual and Temporal in Parliament aſſembled, That all perſons aſſuming to themſelves titles of honour not warranted by law, nor allowed by the known courteſy of this land, are guilty of a high breach of the privileges of this Houſe.

61. Reſolved by the Lords Spiritual and Temporal in Parliament aſſembled, That all perſons ſigning ſuch titles of honour

E. nour in lieu of or as an addition to their names, are guilty of a high breach of the privileges of this Houſe. I.

62. Reſolved by the Lords Spiritual and Temporal in Parliament aſſembled, That all perſons bearing enſigns of honour not warranted by law, nor allowed by the known courteſy of this land, upon their carriages, plate, or furniture, with or without their coats of arms, are guilty of a high breach of the privileges of this Houſe.

63. Reſolved by the Lords Spiritual and Temporal in Parliament aſſembled, That all printers and publiſhers attributing titles of honour to any perſons to whom they do not properly belong, by inſerting ſuch titles in their public newſpapers or advertiſements, either in lieu of or in addition to the names of ſuch perſons, are guilty of a notorious breach of the privileges of this Houſe.

128 E. C. March 20, 1767.

64. Reſolved, That this Houſe, or any committee thereof, ſhall not proceed to the hearing upon any claim to a title of honour, until fourteen days after printed caſes ſhall have been delivered, which ſhall contain an abſtract of the proofs and authorities upon which ſuch claim may be founded, together with the dates thereof, and references where the ſame may be found. 9th Feb. 1784. Caſe of the Earl of Ormond, in 1791.

Similar orders to theſe two are not to be found on the Engliſh roll.

65. *Cuſtody.*—Reſolved, That when any perſon, ordered by this Houſe to be taken into cuſtody ſhall abſcond, ſo that he is not taken till the Parliament is prorogued or diſſolved, this Houſe will renew their order at the next meeting, and ſo ſucceſſively, till the perſon is taken. 15th Oct. 711.

66. Reſolved, That when any perſon, taken into cuſtody by order of this Houſe, ſhall

I. shall be discharged from his confinement by the prorogation or dissolution of the Parliament, not having paid his fees; that this House will at their next meeting renew their order, and the person shall be taken again and kept in custody till he has paid the officers their fees. *E.*

30th July, 1707. 67. *Against annexing Clauses in Bills of Aid.*—The annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to, and different from the matter of the said bill of aid or supply, is unparliamentary, and tends to the destruction of the constitution of this kingdom. 25 E. O. 9th Feb. 1702.

These two orders, framed on the 4th of December, 1783, have been most effectual.

68. Resolved by the Lords Spiritual and Temporal in Parliament assembled, *nemine dissentiente*, That all grants for the encouragement of particular manufactures, arts, and inventions, or for the construction or carrying on of any public or other works, ought to be made in separate acts, and that the practice of annexing such grants to bills of aid or supply for the support of his Majesty's Government, is unparliamentary, and tends to the destruction of the constitution.

69. Resolved by the Lords Spiritual and Temporal in Parliament assembled, *nemine dissentiente*, That this House will reject any bill of aid or supply to which any clause or clauses, the matter of which is foreign to and different from the matter of the said bill of aid or supply, or any clause or clauses for the granting of any sum or sums of money for the encouragement of particular manufactures, arts, and inventions, or for the construction or carrying on of any public or other works, shall be annexed.

2d Nov. 1692. 70. *Protestation.*—Such Lords as shall make protestation, or enter their dissent, 87 E. O. 5th March, 1641.

to

E. to any vote of the Houſe, as they have a right to do without aſking leave of the Houſe either with or without their reaſons, ſhall make their proteſtation, or give direction to have their diſſent entered into the clerk's book, the *next ſitting day of* the Houſe, or elſe the ſaid proteſtation, or diſſent, to be void, and of no effect. *I.*

214 E. O. 27th Feb. 1721.*

The firſt Iriſh Proteſt was on the 1ſt of Sept. 1662. The Earl of Glandore ſigned before the Houſe roſe, next ſitting day, in 1786, and his Proteſt was allowed.

71. *Private Bills.*—That for the future no private bill ſhall be brought into this Houſe, until the Houſe be informed of the matters therein contained by petition to this Houſe for leave to bring in ſuch bill.†

95 E. O. 7th Dec. 1699.

24th Nov. 1783.

72. That

* Lord Clarendon remarks, that in 1640-1, proteſting with reaſons commenced, before which time Lords who proteſted, only entered their names in the Journal, as diſſentient to a reſolution.

† The Lords of England, in June, 1795, made ſome alterations relative to theſe orders about private bills, as appears from the following report of the Lords Committees appointed to take the roll of ſtanding orders into conſideration.

"Ordered to report, that in obedience to your Lordſhips commands, the Committee have met and taken into conſideration the ſtanding order, No. 126, concerning bills for ſelling lands and purchaſing others to be ſettled in lieu thereof, and beg leave to propoſe the following amendment to the ſaid order:

Leave out from the words "King George the Second, cap. 24." to the end of the ſaid order, and inſert, "And ſhall, when ſo paid in, be laid out in the purchaſe of Navy or Victualling bills, or Exchequer bills. And it is further ordered, that the intereſt ariſing from the money ſo laid out in the ſaid Navy or Victualling, or Exchequer bills, and the money received for the ſame, as they ſhall be reſpectively paid off by Government, ſhall be laid out in the name of the ſaid Accountant General, in the purchaſe of other Navy or Victualling bills, or Exchequer bills. All which ſaid Navy and Victualling bills, and Exchequer bills, ſhall be depoſited in the Bank in the name of the ſaid Accountant General, and ſhall there remain until a proper purchaſe or purchaſes be found and approved, as ſhall be directed by ſuch bill, and until the ſame ſhall, upon a petition, ſetting forth ſuch approbation to be preferred to the Court of Chancery, in a ſummary way, by the perſons to be named in the bill, be ordered to be ſold by the

[illegible] for a private [illegible] House, it shall [illegible] are forth- [illegible] before them [illegible] and after [illegible] report to the [illegible] and their [illegible] hands, and [illegible] The same method [illegible] that are [illegible] before the [illegible] by sending a [illegible] the clerk, [illegible]

E. 99 E. O. 16 Feb. 1705. Case of Lady Ely, in 1786.

[illegible] That [illegible] Navy, [illegible] shall [illegible] the [illegible] be [illegible] and [illegible] to the [illegible] person or [illegible] to be [illegible] reading, [illegible] be proper [illegible] in this [illegible] to be [illegible] and shall [illegible] bills [illegible] that [illegible] here.— [illegible] of [illegible] of the House [illegible] to be

E. I.

103 E. O. 18th Dec. 1706. 73. That upon the reference of any private bill to the judges as aforeſaid, the judges to whom the ſaid bill ſhall be referred, ſhall ſend to this Houſe a liſt or liſts of all ſuch perſons' names as are to be ſworn in relation to ſuch bill, and that they ſhall be thereupon ſworn at the bar of this Houſe, in order to be examined by the judges upon ſuch oath in relation to the bill before them. 24th Nov. 1783.

96 E. O. 16th Nov. 1705. 74. That for the future no private bill ſhall be read a ſecond time in this Houſe, until printed copies thereof be left with the Clerk of the Parliaments for the peruſal of the Lords, and that one of the ſaid copies ſhall be delivered to every perſon that ſhall be concerned in the ſaid bill, before the meeting of the committee upon ſuch bill; and in caſe of infancy, to be delivered to the guardian or next relation of full age, not concerned in intereſt or in paſſing of the ſaid bill. 24th Nov. 1783.

101 E. O. 16th Feb. 1705. 75. That in all caſes where truſtees ſhall be appointed by any private bill, the committee to whom the bill is referred, do take care that the truſtees appear perſonally before them, and accept the truſt under their hands: and alſo that the Lord who ſhall be in the chair of a committee for paſſing of any private bill, when he makes his report, ſhall acquaint the Houſe, that all the orders of the Houſe in relation to private bills were duly obſerved in the paſſing of the ſaid bill through the committee. 24th Nov. 1783.

94 E. O. 20th April 1698. 76. That for the future it be a general inſtruction to all committees who ſhall meet upon private bills, that they take no notice of the conſent of any perſon to the 24th Nov. 1783.

be heard in the Houſe, no private bill whatſoever ſhould be read on that day, before the hearing of that cauſe.

I. passing of such bill, unless such person appear before them, or that there be an affidavit of two persons made, that he or she is not able to attend and doth consent to such bill, and that when any committee shall be appointed on a private bill, notice thereof be affixed on the doors of this House fourteen days before the meeting of the said committee. I.

2d Nov. 1692. The first writ of error in the House of Lords in Ireland was on the 13th of April, 1644.

77. *Proceedings on Writs of Error.*—Forasmuch as upon writs of error returnable in the High Court of Parliament, the plaintiff therein does often desire to delay justice, rather than come to the determination of the right of the cause: it is, therefore, ordered, that the plaintiff in all such writs, after the same and the records be brought in, shall speedily repair to the Clerk of the Parliaments, and prosecute his *writ of error*, and satisfy the officers of this House their fees justly due to them by reason of the prosecution of the said writs of error and the proceedings thereon; and further shall assign his errors within eight days after the bringing in such writs with the records; and if the plaintiff make default so to do, then the said clerk (if the defendant in such writ require it) shall record, that the plaintiff has not prosecuted his writ of error, and that the House doth therefore award that such plaintiff shall lose his writ, and that the defendant shall go without day, and that the record be remitted; and if any plaintiff, in any writ of error, shall alledge diminution, and pray a *certiorari*, the clerk shall enter an award thereof accordingly, and the plaintiff may, before *in nullo est erratum* pleaded, sue forth the writ of *certiorari*, in ordinary course, without special petition, or motion, in this House for the same; and if he shall not prosecute such writ, and procure it to be returned within ten days next after his plea of diminution put into this House, then (unless he shew 54 E. O. 13th Dec. 1662.

good

E. good cauſe to this Houſe for enlarging the time for the returning of ſuch writs he ſhall loſe the benefit of the ſame, and the defendant on the writ of error may proceed as if no ſuch writ of *certiorari* were awarded. *I.*

55 E. O. 13th July, 1678. 78. *Time limited to bring in Writs of Error and Appeals.*—All perſons who ſhall have any writs of error or petitions of appeal from any court of equity, to be exhibited to this Houſe, may bring in ſuch writs of error and appeals at any time during this ſeſſion of Parliament, and for the time to come they are to be brought in and received within fourteen days from the firſt day of every ſeſſion or meeting of Parliament after a receſs, after which time the Lords declare they will, during every ſuch ſitting, receive no writs of error or petitions of appeal, unleſs upon a judgment given in any of his Majeſty's courts of judicature, or decree made in any of the courts of equity whilſt the Parliament is actually ſitting: in which caſes the party who ſhall find himſelf aggrieved, may bring his writ of error, or petition of appeal, within fourteen days after ſuch judgment or decree is given. 2d Nov. 1692.

57 E. O. 24th Feb. 1694. 79. *Re-hearings.*—No petition which relates to the re-hearing of any cauſe, or part of a cauſe, formerly heard in this Houſe, ſhall be read the ſame day it is offered, but ſhall lie upon the table, and a future day be appointed for the reading thereof, after twelve of the clock. 30th July, 1707. Caſe of Magrath v. Ld. Muſkerry, in 1786-7.

5[8] E. O. 3d March, 1699. 80. *What Counſel ſhall ſign Appeals.*—No petition of appeal ſhall be received or receivable into this Houſe which is not ſigned by two counſel, and the Clerk of the Parliaments ſhall not give a certificate of any petition of appeal being lodged in this Houſe, unleſs the ſame ſhall be ſigned by two counſels; and no perſon whatſoever 30th July, 1707. Amended 11th Feb. 1790.

I. ever ſhall preſume, as counſel, to ſign any appeal to be brought into this Houſe for the future, unleſs ſuch perſon hath been of counſel in the ſame cauſe in the courts below, or ſhall attend as counſel at the bar of this Houſe when the ſaid petition of appeal ſhall be heard. *E.*

30th July, 1707. 81. *Caſes to be ſigned by Counſel.*—For preventing ſcandalous and frivolous written and printed caſes on appeals and writs of error, no perſon whatſoever ſhall preſume to deliver any *written* or printed caſe or caſes to any Lord of this Houſe, unleſs ſuch caſe or caſes ſhall be ſigned by one or more of the counſel who attended the hearing the cauſe in the *courts below*, or ſhall be of counſel at the hearing in this Houſe. 59 E. O. 9th April, 1698.

30th July, 1707. Caſe of Ld. Muſkerry, in 1786-7. 82. *Petition for putting off Cauſes.*—When a day ſhall be appointed for the hearing of any cauſe, appeal, or writ of error, to be argued in this Houſe, the ſame ſhall not be altered but upon petition; and no petition ſhall in ſuch caſe be received, unleſs two days notice thereof be given to the *adverſe* party, of which notice, oath ſhall be made at the bar of this Houſe. 60 E. O. 22d Dec. 1702.

30th July, 1707. 83. Reſolved on the queſtion for the future, when any days are appointed for hearing cauſes upon appeals or writs of error to be brought into this Houſe, upon the petition or application of either party, if it be put off to a further day, that then the perſon or perſons ſo petitioning or applying, ſhall pay unto the adverſe party ten pounds coſts.* Ibid.

2d Nov. 1792. 84. *The Queſtion in Judgment upon Writs of Error.*—Upon giving judgment in any caſes of appeals or writs of error, in this Houſe, 56 E. O. 7th Dec. 1691.

* The ſubſequent fourteen rules, commencing with the 85th order, relative to appeals, were preſented together, in a continued ſeries, by Lord Lifford, the late Chancellor; and they were entered upon the roll, as well as thoſe ſix preceding regulations, framed at the ſame time, and adopted on the 24th of November, 1783, concerning bills for the diſpoſition of private property.

House, the question shall be put for reversing, and *not* for affirming;* because in *all cases* where the votes are *equal*, it is carried *semper presumitur pro negante*; and yet the House is of opinion, that a decree or judgment cannot be reversed but by a majority of votes, though affirmed if equal, for then they alter nothing. I.

*These reasons are added to the Order adopted from England, and it is a universal rule in all cases in the House, and in all Committees of the House of Lords in both kingdoms.

As to appeals from any order, decree, or proceeding of, or in any court of equity, the following particulars ought to be observed, viz.

85. That every appeal do come in the form of a petition. 24th Nov. 1783.

86. That such petition is to be moved or introduced by some Lord of Parliament. The first appeal to the House of Lords in Ireland, was Jan. 22, 1661.

87. That such petition ought to be fairly ingrossed on parchment, that it may have the permanent quality of a record, and that the clerk of this House ought not to receive such petition of appeal, unless the same be so ingrossed on parchment.

61 E. O. 16th Jan. 1710. 88. That in all cases upon appeals to be brought into this House, the party or parties appellants shall, within eight days after such appeal shall be received, give security to the clerk of the Parliaments by recognizance to his Majesty, in the penalty of two hundred pounds, conditioned to pay such costs to the respondent or respondents in such appeals as this House shall appoint or award, in case the decree, order, or proceeding appealed against, shall be affirmed, or in case the appeal shall be dismissed for want of prosecution, and if the appellant or appellants shall neglect or refuse to give such security within the time aforesaid, that then the clerk of the Parliaments shall inform the House, and the appeal from thenceforth be dismissed. Amended 11th Feb. 1790.

105 E. O. 21st Feb. 1717. 89. That in all cases upon writs of error depending in this House, when diminution 24th Nov. 1783.

shall

I. shall at any time be alledged, and a *certiorari* prayed and awarded before *in nullo est erratum* pleaded, the clerk of the Parliaments shall, upon requests to him made, give a certificate that diminution is so alledged, and a *certiorari* prayed and awarded thereupon. II.

24th Nov. 1783. 90. That when upon an appeal to this House, an order is made for the respondent to answer thereto by a time limited, and no answer is put in by that time, upon proof made of due service of such order, a peremptory day shall be appointed for putting in the answer, without any further notice to be given to the respondent, 106 E. O. 15th Jan. 1719.

24th Nov. 1783. 91. That such appeals as shall be presented during this session, to which answers shall be put in during this session, and for hearing whereof no day shall be appointed in this session, and all such appeals as shall be presented in any subsequent session, to which answers shall be put in during the same Session, and for hearing whereof one day shall be appointed in such session; if neither the appellant or respondent shall apply to this House within eight days, to be accounted from the first day of the next Session, or meeting of Parliament, for a day of hearing, such appeals shall stand dismissed, but without prejudice to the appellants presenting any new appeals thereafter, as they shall be advised. 107 E. O. March 29, 1720.

24th Nov. 1783. 92. That such appeals as shall be presented during this Session, to which no answer shall be put in during this Session, and all such appeals as shall be presented in any subsequent session, to which no answer shall be put in during the same Session; if neither the appellant within eight days, to be accounted from and after the first day of the next Session or meeting of Parliament, shall apply to this House to appoint a peremptory day to answer, nor the respondent 108 E. O. 5th April, 1734.

put

E. put in an anſwer within the ſaid eight days, ſuch appeals ſhall ſtand diſmiſſed, but without prejudice to the appellants preſenting any new appeals thereafter, as they ſhall be adviſed. I.

109 E. O. 5th April, 1734. 93. That when any anſwer to an appeal ſhall be made in future, the clerk to whom it ſhall be delivered do immediately indorſe thereon the day on which ſuch anſwer is brought in, and the names of the parties anſwering, and to whoſe appeal ſuch anſwers are put in, the ſame day entered in the Journal of this Houſe. 24th Nov. 1783.

117 E. O. 18th Dec. 1724. 94. That in all cauſes on appeals or writs of error appointed to be heard in this Houſe, the appellants and reſpondents, the plaintiffs and defendants, or their reſpective agents or ſolicitors, do for the future deliver to the clerk of the Parliaments, or clerk aſſiſtant, to be diſtributed to the Lords of this Houſe, printed caſes upon ſuch appeals or writs of error, at leaſt ſix days before the hearing of the ſame: and that no other different caſes, in any ſuch cauſes be at any time afterwards printed or delivered, without leave of this Houſe. 24th Nov. 1783.

118 E. O. March 24, 1725. 95. That no petition of appeal, from any decree, order, or ſentence of any courts of equity, before this time ſigned and inrolled, or extracted, be received in this Houſe after *five years**,—to be accounted from the expiration of this preſent Seſſion of Parliament, and the end of the next Seſſion after the ſaid five years.—Nor ſhall any petition of appeal from any decree, order, or ſentence of any of the ſaid courts, to be hereafter ſigned and inrolled, or extracted, be received by this Houſe, after five years from the ſigning and inrolling or extracting the ſaid decree, order, or ſentence, and the end of fourteen days next after the ſaid five years:—unleſs the perſons intitled to ſuch appeal be within the age of *one* and twenty 24th Nov. 1783.

N

* Vide p. 52.

I. twenty years, or *covert, non compos mentis,* *E.*
impriſoned, or out of Great Britain or Ireland.—In which caſes, ſuch perſon ſhall, and may be at liberty to bring his appeal for reverſing ſuch decree or ſentence, at any time within *five years* next after his coming of age, *diſcouverture,* coming of ſound mind, enlargement from priſon, or coming into Great Britain or Ireland;—and fourteen days to be accounted from and after the firſt day of Parliament next enſuing the ſaid five years; but not otherwiſe,* nor after that period.

24th Nov. 1783. 96. That at the hearing of cauſes, one of the counſel for appellants ſhall open the cauſe; then the evidence on their ſide ſhall be read, which done, the other counſel for the appellants ſhall make obſervations on the evidence: then one of the counſel for the reſpondents ſhall be heard, and the evidence on their ſide to be read; after which the other counſel for the reſpondents ſhall be heard; and one counſel only for the appellants ſhall reply. 119 E. O. 12d June, 1737.

24th Nov. 1783. 97. That when upon an appeal to this Houſe, an order hath been, or ſhall be made for the reſpondent or reſpondents to anſwer thereto, by a time limited, if the Seſſion of Parliament wherein ſuch order hath been or ſhall be made, ſhall determine before the time ſo limited for anſwering ſhall be expired, and no anſwer ſhall be put in during the ſame Seſſion;—ſervice of ſuch order upon the reſpondent or reſpondents to ſuch appeal, by the ſpace of five weeks at the leaſt, before the firſt day of the then next Seſſion, ſhall be deemed good ſervice; and the appellant may apply to this Houſe for a 123 E. O. March 28, 1735.

* The appeal of Sir John Ruſhout, February 28, in 1725, from a decree of the Chancery in 1716, *nine* years after it was made, was the cauſe of framing this order, the 128th on the Engliſh roll; it was warmly conteſted, and Lord Lechmere proteſted againſt it, but without ſpecifying his reaſons.

peremp-

E. peremptory day for putting in the anſwer, in caſe the reſpondent or reſpondents ſhall not put in his or their anſwer within three days, to be computed from the firſt day, of the then next Seſſion of Paliament. *I.*

124 E. O. 8th June, 1749. 98. That all ſuch appeals, as ſhall be preſented during this Seſſion, and for hearing whereof, days ſhall be appointed; but which ſhall not be determined therein;—and all ſuch appeals as ſhall be preſented, for hearing whereof days ſhall be appointed in any ſubſequent Seſſion; which ſhall not be determined in the ſaid period; ſhall be heard and determined in the next Seſſion of Parliament, in the ſame order and courſe as they ſhall ſtand to be heard at the end of this, or any future Seſſion; without any new application to this Houſe, to appoint a day for hearing the ſame:—and that ſuch of the ſaid appeals, as ſhall ſtand *firſt* to be heard, at the end of this or any future Seſſion; ſhall be heard upon the Wedneſday, in the week next after that, in which any ſubſequent Seſſion of Parliament ſhall begin; the ſecond upon the Friday following; and the third upon the Monday following; and from thence the reſt of the ſaid appeals in due courſe, upon every Wedneſday, Friday, and Monday, until they ſhall be all heard and determined*;—and that in caſe any ſuch appeal ſhall not be adjourned by order of this Houſe, made before the day on which the ſame is appointed to be heard, and the party or parties on *one* ſide *only*, ſhall attend by their counſel on the ſaid day appointed for hearing thereof, ſuch appeal ſhall be heard *ex parte*;—and in caſe neither of the parties to ſuch appeal ſhall attend by their counſel on the day appointed for hearing thereof, then ſuch appeal ſhall be abſolutely diſmiſſed;—but without prejudice in this laſt caſe to the appellant or appellants preſenting a *new* appeal thereafter, in ſuch manner 24th Nov. 1783.

* Vide p. 61, note the ſecond.

I. manner as the ſaid parties might have done, in caſe ſuch former appeal had not been preſented to this Houſe, or as they ſhall be adviſed. E.

24th Nov. 1783. 99. That if the reſpondent or reſpondents to any appeal depending in this Houſe ſhall be deſirous to exhibit a croſs appeal, they ſhall preſent the ſame within *one week* after their anſwer put into the original appeal; otherwiſe the ſame ſhall not be received. 127 E. O. 8th March, 1763.

30th July, 1707. Obſolete. 100. *Not to print without Leave of the Houſe.*—It ſhall be a breach of the privilege of this Houſe, for any perſon whatſoever to print or publiſh in print, any thing relative to the proceedings of this Houſe without the leave of this Houſe. 77 E. O. 27th Feb. 1698. Obſolete.

2d Nov. 1692. Caſe of the Hon. Simon Butler, and Dr. Hodſon, in 1793. 101. *Fines.*—Whereas the High Court of the Upper Houſe of Parliament do often find cauſe in their judicature, to impoſe fines amongſt other puniſhments upon offenders, for the good example of juſtice, and to deter others from like offences, it is thought reaſonable that, at *leaſt once before* the end of every Seſſion, the committee for the orders of the Houſe, and privileges of the Lords of Parliament, do acquaint the Houſe with all the fines that have been laid that Seſſion: that thereupon their Lordſhips may uſe that power they juſtly have, to take *off* or *mitigate* ſuch *fines*, either wholly or in part, according to the meaſure of the penitence or ability of the offender; or to ſuffer all to ſtand, as in equity their Lordſhips ſhall think fit: and that, until every Seſſion be ended, no eſtreat be made of ſuch fines ſet or impoſed by Parliament, or any copy thereof to be made by the clerk without ſpecial order, upon public motion in a full Houſe. 46 E. O. 20th May, 1626. This order related to the great fines which had been impoſed on the Chancellor Bacon, and others in England, at this period.

2d Nov. 1692. 102. *Trial of ſuch Perſons as ſhall be brought before the Lords.*—As this court is the 47 E. O. 3d April, 1624.

E. the higheſt, from whence others ought to draw their light, ſo the proceedings thereof ſhould be moſt clear and equal, as well on the one ſide in finding out offences where there is juſt ground, as on the other ſide in affording all juſt means of defence to ſuch as ſhall be queſtioned; and therefore in all caſes of moment, the defendants ſhall have copies of all depoſitions, *pro et contrà*, after publication; and a convenient time before the hearing, to prepare themſelves. I.

63 E. O. 13th June. 1685. 103. *Counſel at the Bar.*—Neither their Majeſties * Attorney General, nor any aſſiſtant of this Houſe, ſhall be allowed to be a counſel for any private perſons whatſoever, without the leave of the Houſe. * 2d Nov. 1692. the 4th year of William and Mary.

N. B. This and the 102 Iriſh orders are copied from 47 E. O. and that order compriſes both. 104. *Counſel to be admitted.*—If the defendants ſhall demand it of the Houſe in due time, they ſhall have their learned counſel to aſſiſt them in their defence, whether they be able by reaſon of health to anſwer in perſon or not, ſo as they chooſe counſel void of juſt exception; and if ſuch counſel ſhall refuſe them, they are to be aſſigned as the court ſhall think fit. This is to be done, becauſe in all cauſes, as well civil, as criminal and capital, all lawful helps cannot before juſt judges make any one that is guilty to avoid juſtice; and on the other ſide, God forbid that the innocent ſhould be condemned! 2d Nov. 1692.

79 E. O. 25th Feb. 1625. 105. *Proxies.*—No Lord of this Houſe ſhall be capable of receiving more than two proxies; no more ſhall be numbered in any queſtion or vote: all proxies from a Spiritual Lord ſhall be made to a Spiritual Lord, and from a Temporal Lord to a Temporal Lord: all proxies to be ſent in due form, or elſe not to be allowed. 2d Nov. 1692.

80 E. O. 25th April, 1626. 106. *Proxies vacated.*—If a Peer, having leave from the King to be abſent from Parliament, ſhould give his proxy, and afterwards ſit again 2d Nov. 1692.

I. again in the Houſe, his coming, and ſitting again in that Parliament, determines a proxy. If a Peer having leave to be abſent, ſhould make his proxy and return, he cannot make a new proxy without new leave. *E.*

30th July, 1707. 107. *Proxies in Judicial Cauſes.*—No proxy for the future ſhall be made uſe of in any judicial cauſe in this Houſe; although the proceedings be by way of bill.* 83 E. O. 25th April, 1626.

30th July, 1707. 108. *Proxies to vote.*—A Lord having a proxy and voting in the queſtion, ought to give a vote for that proxy; in caſe proxies be called for. 84 E. O. 11th Feb. 16[illegible]4

* * * * * * * * * * * * *

30th July, 1707. 109. *Proxies entered after Prayers.*—No proxy entered in the book after prayers; ſhall be made uſe of the ſame day in any queſtion. 85 E. O. March 20, 1696.

7th Nov. 1737. 110. Reſolved, that all proxies of the Lords of Parliament do, and ought to determine upon a prorogation.†

* The Lords Committees in 1783, vacated a rule for allowing proxies, in preliminaries, upon judicial pleadings and determinations; which ſtill appears as the 82d order, framed on the 11th of June, 1689, upon the Engliſh roll; and the Houſe concurred in their recommendation.

† The orders relative to appeals and to private bills were reviſed; ſome new rules were adopted from England; and the whole ſeries of regulations on thoſe ſubjects, were preſented, as they now appear upon the roll, the 24th of Nov. 1783 by, Lord Lifford, the late Chancellor.

It is to be obſerved, that the expenſe of a private bill is *treble* in the Iriſh, to its amount in the Bri ſh Parliament. This ariſes from fees, claimed and paid to the clerks of the Privy Council, and other ſtate officers in England and Ireland; although ſince the alteration of Poyning's law, in 1780, it is conceived there is no longer any colour, for thoſe exactions.

CHAP. II.

General Remarks—Of proteſting by Proxy, and of the Claims of Vice-roys, to proteſt in Ireland—Poynings' Law—Former and preſent State of Legiſlation in Ireland—Numbers of the Peerage in 1717, and its increaſe ſince the Peerage Bill, in both Kingdoms—Remarks on that deſigned Limitation—And the remarkable Caſe of Mr. Wharton, in 1714, declining a Peerage after his Title was inſerted in the London Gazette.

UNDER the head of proxy, in the *general index* to the *Journals* of the Lords of Ireland, (an advantage, which they at preſent have over the Engliſh records, and journals of the Houſe of Lords) three inſtances occur, of proteſts entered by three vice-roys; againſt the claim and right of the Houſe of Commons to originate laws, under the preſcriptions of Poyning's law.

Theſe examples occurred in the caſes of Lord Strafford, in 1634-5; of Lord Sidney, in 1692; and of Lord Townſhend, in 1769: the two laſt were in regard to money bills; and in 1692, and 1769, Parliament was prorogued immediately after theſe extraordinary acts of power. But as Poyning's law was in a great meaſure repealed, or newly modified in 1779 80; thoſe unconſtitutional claims and violent exertions of power cannot be repeated.

It is further to be obſerved, that the Lords of Ireland proteſt by proxy, a privilege unknown in England, which has been explained in the caſe of the Earl of Grandeſon. *Iriſh Parl. Hiſt. vol.* ii. *p.* 290.

And alſo, that the words of a Lord, "having the King's "licence to be abſent from Parliament," were left in the 106th ſtanding order, when it was copied and adopted from the Engliſh roll; though there is not any reaſon to ſuppoſe that ſuch a licence, was ever given to a Peer from the Crown in Ireland.

But in the inſtrument by which proxies are granted in England, the words *per licentiam domini regis* ſeem to denote, that in early times ſuch a licence from the crown was neceſſary for abſence from Parliament; and for creating a proxy.

There are, however, no ſimilar words in the form of a proxy in Ireland, (where thoſe inſtruments are in Engliſh, though they are ſtill in Latin in England) and they created a doubt in 1789, in the Britiſh Parliament; whether proxies were good that were made after a certain time, as they could not be ſuppoſed to have the royal licence, at that critical period.

As

As there are not any orders of an earlier date than the *ſecond* of November, 1692, on the Iriſh roll; it might appear that the Lords of Ireland had no ſtanding orders antecedent to that period.

But, on the 23d of July, 1634, it appears that twenty-two orders were entered in their Journals; that ſome were added afterwards; and that Lord Strafford laboured, and had the good fortune to uſe an efficacious influence, to affimilate the proceedings of the Lords in both kingdoms.

After an interval of Parliament of nearly twenty-five years, from 1666, to 1692, the Lords of Ireland thought it expedient to reviſe, new model, and add many orders to their roll, which had not been adopted before that period; and hence the reaſon of that date occurring ſo often in this compilation.

The frequent references to the celebrated law of Sir Edward Poynings, K. G. have been ſo often repeated, and it is of a nature ſo curious in itſelf, as extraordinary, perhaps, as the inſtitution of the *Lords of articles*,* in the Scotch Parliament before the revolution, that no compilation of this ſort could be complete, without a ſtatement of that ſtatute, which bears the name of Poynings' law, from its being paſſed in his government, the tenth year of King Henry the Seventh, chapter the fourth, and is as follows:

"An act that no Parliament ſhall be holden in this land "until the acts be certified into England.

"*Item.* At the requeſt of the Commons of this land of "Ireland: be it enacted, ordained, and eſtabliſhed, that at "the next Parliament that ſhall be there holden by the "King's commandment and licence (wherein, amongſt other "things, the King's grace intendeth to have a general re-"ſumption of his whole revenues, ſince the laſt day of the "reign of King Edward the Second) no Parliament be "holden hereafter in this land, but at ſuch ſeaſon as the "King's lieutenant and counſel there, do firſt certify to "the King, under the Great Seal of that land; the cauſes "and conſiderations, and all ſuch acts as to them ſeemeth "fit, ſhall paſs in the ſame Parliament; and ſuch cauſes, "conſiderations, and acts, affirmed by the King and his "council (in England) to be good and expedient for that "land, and his licence thereupon, as well in affirmation of "the ſaid cauſes and acts, as to ſummon the ſaid Parlia-"ment under the Great Seal of England, had and obtained; "that done, a Parliament to be had and holden, after the "form and effect above rehearſed: and if any Parliament be "holden in that land hereafter, contrary to the form and

* Robertſon's Hiſtory of Scotland, vol. i. p. 81.

"proviſion

" proviſion aforeſaid, it ſhall be deemed void, and of no " effect in law."

The extreme inconvenience of ſending over *all* the laws that were intended to be paſſed, before Parliament met, gave riſe to the act of the third and fourth of Philip and Mary, c. 4. by which propoſitions for laws might be tranſmitted to England, while the Parliament was ſitting.

Under theſe two laws the practice was, in the Iriſh Parliament, till 1779-80, to make propoſitions to the Lord Lieutenant and Council, for laws which were tranſmitted to the King and Council in England, under the deſcription of HEADS of BILLS, and after a variety of ſtages explained elſewhere,* they paſſed into laws.

But in 1779-80, a law paſſed by which bills in Ireland were to be enacted and ratified by the Crown, in a ſimilar manner to the mode purſued in commiſſions that are ſo often iſſued in England, when the King does not think it expedient to give the royal aſſent in perſon in the Britiſh Parliament.

It may not be unſeaſonable to cloſe theſe general remarks with a few obſervations upon the preſent extent of the Peerage in both kingdoms.

In 1791, the Peerage ſtood thus:

Engliſh Peers, - - - - - -	280
Scotch, - - - - - - - - -	95
Iriſh, - - - - - - - - -	200

Total (48 Biſhops, 16 Scotch repreſentatives, Peereſſes in their own right included.) In the three kingdoms, 575.

The Iriſh Peerage has been nearly doubled, ſince the beginning of this century. Near ſixty Peers have been added to the Engliſh roll ſince 1775-6.

And this reflection leads to a ſhort comment, upon the celebrated limitation in 1717, by the Peerage bill, originating in that Houſe, and to which George the Firſt anticipated his conſent, paſſed in the Lords, but rejected by the Houſe of Commons by a great majority.

A limitation of this kind would certainly give the greateſt importance to that Aſſembly, by rendering a Peerage of far greater importance, than can be ſuppoſed to be the caſe where there is no limitation; perhaps it would be alſo for the advantage of the Crown, and for the intereſt of the people.

In ancient times, Peers were created not only *in* Parliament, but by and with the conſent of the whole legiſlature;† of this practice (which ceaſed in the reign of Henry the Se-

* Conſideration on Poynings' Law, by Lord Mountmorres. Printed for Almon, in 1778.

† Sullivan's Lectures upon the Laws of England, p. 187 to p. 205.

venth) there are ample and the moſt reſpectable teſtimonies that could readily be cited, were not the conſideration a digreſſion from the principal object of this compilation.

But though the Peerage bill was rejected in 1717, yet the ſpirit of that deſigned regulation, had the greateſt weight for half a century.

For, the Peerage of England amounted in 1717 to 221, and at the Ducheſs of Kingſton's trial, in 1775-6; it ſtood at 222; ſo that there was an increment of only ONE in near ſixty years, and the Crown kept within the deſigned limitation, which allowed ſix to be added to the Engliſh Peers, and nine to the Scotch ariſtocratical repreſentation.

The circumſtances that probably led to this wiſe policy, are curious, little known, and heretofore ſuperficially inveſtigated.

It is well known, that the extraordinary meaſure of creating twelve Peers at once, to carry the treaty of Utrecht, ſome of whom were promoted in ſuch a hurry; that their conſent was not previouſly known, and only ſuppoſed, had depreciated the Engliſh Peerage ſo much, that the honour of Nobility was no longer in its former eſtimation.

This was proved by a very extraordinary refuſal that occurred ſoon after the Hanover ſucceſſion, and which probably cauſed King George the Firſt, and his ſucceſſor, to adopt this wiſe ſyſtem of economy and moderation in the diſtribution of hereditary honours.

The King deſigned to have created Miles Wharton, Eſq. a Peer, as the firſt creation of his reign; and the honour deſigned him was announced, as uſual, in the Gazette; but in a ſubſequent paper, about a week afterwards, it appears that Mr. Wharton had declined that high honour, and that King George the Firſt had been pleaſed to accept his reſignation.

This caſe of Mr. Wharton, in October, 1714, is moſt important:—it throws a great light upon the depreciation of Peerages, at the commencement of the reign of George the Firſt, by the imprudent conduct of his predeceſſor, creating twelve Peers at once, in the ſequel of her reign, to obtain a parliamentary approbation for the treaty of Utrecht.

It decides a queſtion that cauſed great doubt in 1780-1, when Lord Rodney was created a Peer, during the courſe of his ſplendid ſervices in the Weſt Indies, relative to iſſuing a writ for Weſtminſter; and proves (as far as one inſtance can determine a queſtion) that a perſon cannot be created a Peer againſt his conſent and inclination.

CHAP.

CHAP. III.

Concluſion—Of the Precedency and Privileges of Peers, in both Kingdoms—The firſt Examples of Iriſh and Scotch Peers, ſitting in the Houſe of Commons—Caſe of a Britiſh Peer a Commoner of Ireland—Upon the 7th Order, and the Origin of excluding Catholics from Parliament—Trials of Peers, and of High Treaſon in Ireland—Comments upon Mr. Paine's Diſſertation upon the firſt Principles of Government.

THE act of precedency in the reign of Henry the Eighth, which regulates the ſeats, not only of Peers, but of all the great Engliſh officers of ſtate, is not of force in Ireland, being of a date ſubſequent to the 10th year of Henry the Seventh, at which period all the antecedent laws of England were adopted by a law paſſed under Sir Edward Poynings, K. G. Lord Deputy, and which is called emphatically by his name, in Lord Bacon's hiſtory of that monarch.

A diſpute about the precedency of the Earl of Surry was the cauſe of this law ;* it has never been adopted in Ireland, and the crown ſtill has the prerogative of giving precedency, of which inſtances occur in the reign of Charles the Firſt, in one of which the judges gave their opinions; but no examples occur of the exerciſe of this power in later periods.

The precedence of the Engliſh and of Iriſh Peers is regulated reciprocally by walking after thoſe of their own degree, in all ſtate proceſſions, and a ſimilar rule obtains in all fêtes, &c. at the Caſtle of Dublin, where an Engliſh Counteſs, &c. ranks after the laſt Iriſh Counteſs.

In all public proceſſions, Engliſh Peers are called by their whole titles by garter, thus, John Lord Viſcount Hereford, and ſo on; and after all thoſe of that degree are called *ſeriatim*, then Iriſh Viſcounts, &c. are called collectively without any peculiar deſignation.

The right of Iriſh Peers to walk at coronations, was aſſerted by the late Earl of Egmont, in a very able publication, in 1737; but though he did not carry that point, it is ſuppoſed that he effected the preſent arrangement, by which Iriſh Peers walk in all other public proceſſions, marriages,

* Engliſh Lords Journals, Vol. i. p. 23.—Hiſtory of the Iriſh Parliament, Vol. i. p. 223.

funerals, &c. of the royal family, or other public acts of ſtate,* after thoſe of their own degree.

According to Sir William Blackſtone, Iriſh Peers are Eſquires only in England: thus, in the caſe of "Frederick "Calvert, Eſq. Baron Baltimore, of the kingdom of Ire-"land," he was tried at Kingſton aſſizes, in March 26, 1768, for a capital offence, according to the *above* ſtyle and deſignation.

As Engliſh Peers are Commoners in Ireland, it has been lately a queſtion in the Court of Exchequer, whether a proceſs ſhould not abate for a miſnomer, in the caſe of Lord Sherborne, as he was not named in the writ according to the ſaid deſignation *(mutatis mutandis)* of Lord Baltimore, but nothing was decided by the court upon that ſubject.

The curious caſe of the Earl of Rochford, repreſenting Killkenny as a Commoner, in 1711, has been noted in the Iriſh Parliamentary Hiſtory, with two others of the ſame kind; and in England upon a queſtion relative to John Vaughan, Eſq. created Viſcount Liſburne, in Ireland, and his vacating his ſeat, it was *firſt* decided that Iriſh Peers might ſit as Commoners in the Britiſh Parliament.†

This leading caſe was rendered more curious by its being combined with the caſe of Lord Falkland, a Scotch Peer, where a ſimilar queſtion occurred about Peers in that kingdom: the deciſion was ſimilar, and Scotch Peers were eligible to the Britiſh Parliament before the Union.

The privileges of Parliament, ſuch as franking, and freedom from arreſts, &c. alſo from ſuits to a certain degree, were claimed by Engliſh Peers and Commoners, till 1781-2.

The Iriſh being a branch of the Engliſh Poſt Office, when the offices were ſeparated, that privilege ceaſed, and none but the franks of the Poſt-maſter General, and certain great ſtate officers, are allowed now by Acts of Parliament of both kingdoms, between Great Britain and Ireland.

Conſequently newſpapers are tranſmitted to Ireland for two pence; one penny paid when put into the office, and one penny on the delivery.

The privilege of Britiſh Peers being exempted from arreſts in Ireland, is recognized by the 110th ſtanding order, framed the 3d of June, 1720, which allowed a written affidavit taken in Ireland to be a ſufficient proof, which was explanatory of the

* Lord Chatham's funeral, June 9, 1778, at which the author walked as an Iriſh Peer. Public funerals, it is to be obſerved, are regulated like thoſe of the royal family.

† Commons Journals, Vol. i. p. 512, 641.—Vol. ii. p. 83, 194.

78th

78th ſtanding order, framed the 11th of January, 1699, directing that no perſon ſhould be committed on a complaint of a breach of privilege, unleſs upon an oath made at the bar of the Houſe; but it is probable that theſe privileges are not now inſiſted upon, as ſince examples of them occur ſince 1781.

The rule about peers anſwering upon honour, applies to bills in courts of equity only; in all other caſes, civil and criminal, according to Mr. Chriſtian, the elaborate, ingenious, and valuable editor of Blackſtone, or rather, to ſpeak more properly, the *modernizer* of the Commentaries of that legal luminary, (as all his comments are, by his labour, extended to 1793) even in the High Court of Parliament, a Lord giving evidence muſt be ſworn; as was the caſe of the Biſhop of Oxford, in the Earl of Macclesfield's, and of the preſent Earl of Mansfield, in Mr. Haſtings's impeachment.

In order to render the preſent ſhort, but laborious compilation, more uſeful and practicable, it is neceſſary to remark, that the notes on the outſide, which relate to Iriſh caſes, &c. are marked with the letter *I*, and thoſe on the inſide of the page, which are taken from England, are marked *E*; and thereby, from the number and date in the margin, references may be made to the Engliſh and Iriſh rolls of ſtanding orders; and moreover, that the date will lead, as well as if the page were cited to thoſe parts of the Engliſh Journals not yet *indexed*,* where the reaſons and origin of the order may be traced.

Amendments to bills are to be ſpecially noted in reports, by the Lord who preſides in a committee, and by the Speaker, or Preſident; both of whom are required by the thirty-fourth ſtanding order in England to mark the effect and coherence of ſuch amendments.

This rule hath not been adopted in Ireland; though the proceedings upon bills, and the briefs, or ſhort notes of

* A calendar of the Lords Journals was compiled and digeſted alphabetically, it is ſaid, by the deſire and at the expenſe of Lord Chancellor Hardwick; of this there are ſeveral manuſcript copies in the poſſeſſion of individuals; and if it were continued and printed, it would anſwer the purpoſe of an index, it is conceived, to the printed Journals; becauſe the references are to the days of the month. Before the Journals of the Houſe of Commons were printed in 1742, it was very difficult to obtain information from them, and the expenſe of a written copy of ſuch a compilation muſt have been immenſe: a written copy of them, however, was made by the order of the late Queen Caroline, and it was made a preſent of to *Sir Iſaac Newton*. This compilation was bought at a ſale, and the author has ſeen it, with the great Philoſopher's name inſcribed on the title pages, in the poſſeſſion of the Earl of Deſborough.

their

their contents, are read in the ſame manner, by the Preſidents of the Lords and Commons, in both kingdoms. Thoſe briefs (by the way) if they were properly digeſted, with ſmall additions or alterations, might form admirable materials for compilers of Parliamentary Proceedings, at the end of a ſeſſion, and be the readieſt, perhaps the moſt efficacious mode of giving a general notoriety to *Acts of Parliament.*

The mode of paſſing laws before, and ſince 1780-1, in Ireland, has been already diſcuſſed in the Hiſtory of the Iriſh Parliament, and has been now fully explained by an able and learned commentator.*

Beſide the reciprocal courteſy of admitting Peers of either kingdom above the bar in the Houſe of Lords, with Members of the Houſe of Commons, there is reaſon to ſuppoſe that ſeats were aſſigned for Iriſh Peers, and that they were formerly admitted to trials in Weſtminſter Hall, probably even without tickets; as may be inferred from the following order, upon Dr. Sacheverel's impeachment:

16 Feb. 1709, *Lords Journals*, v. xix. p. 85.

Ordered, "That when any Peereſſes, or their daughters, "ſhall come to the trial in Weſtminſter Hall, they ſhall be "admitted to the ſeats which are ſecured for them. *Likewiſe Peereſſes of Ireland, and their daughters.*"

In the foregoing ſhort, but accurate, compilation, all the orders of the Lords of England have been recited in ſubſtance; their import traced from their origin, and the reaſons on which they were originally *framed*, ſave only the ſeventy-firſt ſtanding order, which requires, "That no oath "ſhall be impoſed by any bill, or otherwiſe, upon any "Peers, with a penalty, in caſe of refuſal, to loſe their "places and votes in Parliament, or the liberty of the de-"bates therein."

This order was *framed* the 30th of April, 1675, and it is very extraordinary that it ſhould ſtill appear upon the roll, and never have been *formally*, as it has in effect been *vacated*, by the ſovereign and paramount authority of an Act of Parliament.

This order, as it now appears, is a teſtimony of the higheſt authority; and proves with what extreme reluctance the Houſe of Lords ſuffered the excluſion of the Catholic Peers; a circumſtance much dwelt upon by the Duke of Ormond, who has recorded his own feelings and ſenſibility

* Twelfth edition of Blackſtone, by Mr. Chriſtian, Profeſſor of Law, in the Univerſity of Cambridge, v. i. p. 102.

on

on this ſubject, in the valuable Memoirs which he has bequeathed to poſterity.*

A ſyſtem, juſtified only by the ſpur of the occaſion, and by the expedience of the times, but which, perhaps, we may hope to ſee removed, with other reſtraints and ſevere penalties, at a period, in the courſe of nature, not very remote; at the death of the children of the late Pretender; which will form a memorable epoch in the annals of the Britiſh conſtitution.†

The fifty-ſecond ſtanding order in England, from a brevity of expreſſion, neceſſarily incidental to ſhort rules, ſeems to be ſomewhat ambiguous.

The words, "That Peers are to be tried in full Parliament," may bear an interpretation, that Peers are to be tried *only*; when the whole Parliament, King, Lords, and Commons, are legally convened; and only at ſuch periods.

But the words are to be taken in a reſtricted ſenſe,‡ and as intended only to require, that all Peers who are duly qualified ſhould be ſummoned, and that the trial of a Peer of the hereditary Peerage ſhould be by the *whole* body.

Preſcriptions which ſince the 14th of July, 1689, when that order was framed, have been carried into execution by the 7th and 8th of King William, adopted in Ireland in 1773-4, by Act of Parliament.

This conſtruction is alſo to be applied to the next, or fifty-third ſtanding order, framed on the 17th of January, 1689, which explains the former order, and declares, that that rule ſhall not be applied to appeals of murder, or of felony, againſt Peers; proceſſes which were allowed to be brought by the neareſt of kin, for the loſs of their relatives, either before or after they had been ſued by the Crown. A mode of proceeding, of which, it is ſaid, very few inſtances occur in later periods.

Before the Revolution, it is to be obſerved, that while Parliament was ſitting, Peers were tried by the *whole* body; but in the interval of Parliament, and during a prorogation, they were tried by a jury of *twenty-three* Peers, ſummoned by the Crown; againſt whom no challenges, either peremptory, or with reaſons, were allowed; ſo that Peers, in ſuch caſes, were in a worſe ſituation than any other ſubjects.

* Iriſh Parliamentary Hiſtory, v. i. p. 305.

† Blackſtone's Commentaries, 12th edition, by Mr. Chriſtian, v. iv. p. 384.

‡ This explanation was added in conſequence of Mr. Hatſell's remark, when he inſpected this compilation.

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The caſe of Lord Delamere, in the reign of James the Second, where, it is ſaid, that the prorogation of Parliament was accelerated, to bring him before this partial tribunal, is ſuppoſed to have been the leading caſe that operated upon the Houſe of Lords, to frame the above order and declaration, which was carried, by a ſubſequent Act of Parliament, into farther effect.

Touching the trials of Peers in Ireland, it is to be remarked, that there are but *two* inſtances recorded from 1634, when the Lords Journals commenced, namely, that of Lord Viſcount Netterville, in 1743, and of Lord Santry, near that period.

The former, was tried during a ſeſſion, for a murder, and was acquitted; the latter, whoſe trial was in the interval of Parliament, was condemned for a ſimilar crime, and his title and eſtates were forfeited; as murder, under a *peculiar* law of Henry the Seventh, was *formerly* conſidered as high treaſon in Ireland; but his life was ſpared by the clemency of the late King.

Upon both trials, the Lords ſat in the chamber, where the Houſe of Commons aſſembled, till it was burned in 1792-3;* which was borrowed, and prepared for that purpoſe.

In Mr. Prynne's laborious and ingenious argument, in the caſe of Lord Macguire in 1644,† he labours to prove that there were no inſtances of trials of Peers, by their own body, in Ireland; but that the ancient cuſtom in that kingdom was, to attaint them by Act of Parliament: and though he cites Iriſh precednt of Lord Slane, who was tried in 1620-1, for murder, before the Lords' Journals commenced, yet he lays no ſtreſs upon that precedent.

At both the trials above-mentioned, the Lord Chancellor Wyndham preſided; and it is ſpecially noted, in his *epitaph*

* The Houſe of Commons *only* was burned in 1792; all the reſt of that noble pile, offices, &c. were preſerved. The Houſe of Parliament in Dublin, finiſhed in 1731, for 29,500l. is, perhaps, one of the nobleſt buildings, and the beſt adapted for its purpoſes, of any public ſtructure in Europe: the late octagon Chamber of Parliament was not ſo well contrived, however, for hearing, nor in its galleries, and general accommodation, as the Theatre at Oxford. This Theatre was deſigned to have been prepared for the reception of the Commons of England, before the laſt Oxford Parliament was diſſolved, the 28th of March, 1681; and it was ſaid to have been in the contemplation of the Speaker Onſlow, as a model for a new Houſe of Commons at Weſtminſter.

† Title Lord Macguire, in the general calendar, in the eleventh volume of Mr. Hargrave's valuable editions of the State Trials, v. i. p. 950,—v. viii. p. 341.

in Saliſbury Cathedral; that he was the only Lord High Steward that was *ever* appointed in Ireland.

It is to be obſerved, and particularly noted, that only that part of the ſtatute of the 7th of William III. chap. 3, which relates to the trials of Peers, has been adopted in Ireland; the eleventh ſection was copied from the Engliſh law, by the advice of Lord Lifford, the late Chancellor, to the author, who was concerned in framing that Act of Parliament. The reſt of the proviſions of that ſtatute, relative to trials for High Treaſon, have not, as YET, been adopted in Ireland.*

The firſt clauſe (relative to allowing counſel) in the Act of King William, produced the following TRAIT of Lord Shafteſbury, the great author of the Characteriſtics:

In the courſe of his ſpeech, upon the clauſe about counſel, &c. he was ſeized with a panic, and could not proceed; and his addreſs to the Houſe, when he recovered himſelf, has been ſuppoſed to have carried the clauſe.

"If I," ſaid the Noble Lord, "conſcious of no crime, "riſing up to deliver my ſentiments, and to diſcharge my "duty in this Houſe, am ſo affected by the awful attention of "a great aſſembly, what muſt be the ſituation of a man im-"plicated in a capital charge; how neceſſary muſt counſel be "to a perſon involved in a proſecution for High Trea-"ſon?"

It is very remarkable that the 12th ſect. of the 7th and 8th Will. III. ch. 3. provides that neither that act, nor any thing therein contained, ſhall any way extend to impeachments, or other proceedings in Parliament of any kind whatſoever.

As every day teems with ſome tranſitory ſyſtem, or a new conſtitution in France, that the next week conſigns to obli-

* It may not be improper to remark here, that in an old Iriſh Act of Parliament, of the 3d and 4th of Philip and Mary, c. 11. ſect. 6. Iriſh Stat. v. i. p. 273, which is noted as expired in the edition of the Iriſh Statutes, printed by order of the Houſe of Lords in 1765, under the inſpection of the Judges, it is expreſsly ſtated, "That all trials "hereafter to be had, or made, for any treaſon ſhall be uſed and had "according to the due and known courſe of the common law of this "realm, and no otherwiſe; ſaving to every perſon and perſons, bodies "politic and corporate, their heirs and ſucceſſors, other than the of-"fenders and their heirs, and ſuch perſons claiming from them, &c. "all ſuch rights, &c. as any of them may have, at the date of the "committing ſuch treaſons, or at any time afore; in as large and am-"ple a manner as if this act had never been had or made."

It is conceived that no other proviſion has been made by any act, except this clauſe in the ſtatute of Philip and Mary, be its influence what it may, at this time, for trials of high treaſon in Ireland.

vion; ſome of which have many readers, and, perhaps, ſome admirers alſo in this country: we ſhall terminate this laborious diſſertation with a wiſh; that reformers may, at leaſt, inquire into ſyſtems, the product of time, and of the wiſdom of ages, before they attempt to ſuperſede them by new inſtitutions.

Brevity, doubtleſs, has great merit; and by that principally, ſome of the French ſyſtems have been recommended to public notice: but this treatiſe has *alſo* that merit; and certainly, much is *here* compreſſed and comprized in a narrow compaſs.

Novelty, however, is often but forgetfulneſs: and the humour of the moment pervaded our political arrangements in church and ſtate, from 1648 to 1660. Government is often conſidered now, as religion was then,

> ——— as if intended
> For nothing elſe, but to be mended!

But, of all the publications of theſe conſtitution-mongers, the moſt extraordinary is a *Diſſertation upon the firſt Principles of Government*, the product of the haſty effervescence of the famous Mr. Paine; in which he labours to ſap the foundations of hereditary government.*

The whole treatiſe is grounded upon this fallacy, from which ſtill more fallacious inferences are deduced:

"That nothing can be more abſurd and impious than for "man to govern beyond the grave; that antecedent cannot bind "the preſent, nor the preſent the future generation; hence, it "is inferred, that all laws, derived from our anceſtors, are "nullities; that every race ſhould make a new conſtitution for "itſelf; from whence it follows, that a nation ſhould have, every "five and twenty years, an entire new conſtitution."

But, by the ſame mode of reaſoning, it might be inferred, that every race, and every individual, ſhould plant their own *trees*, and build their own *houſes*; and ſomething like this opinion is to be traced in ſome oriental countries, whoſe maxim it is; that a tenant of uncertainty ſhould build only a temporary habitation, to laſt only for his own life.

And hence it would follow, were the ſame analogy purſued, that men ſhould dwell in moveable tents, or *wigwams*;† and not in permanent habitations.

* Vide the Criſis, printed by Hookham, Bond Street, p. 87, to p. 102.

† The wicker huts of the Indians are thus called.

The

The fallacy of Mr. Paine conſiſts in the aſſertion, that a law ordained by our anceſtors is a permanent engagement, by which all future generations are at *all* times, and in *all* caſes, to be bound; whereas, the MELIORATING principle of our conſtitution, to reform its own errors, and the abuſes to which every human inſtitution are liable; is a complete refutation of ſuch an opinion: our anceſtors, in leaving us the preſent ſyſtem, have bequeathed us no more than their beſt advice and powerful recommendation.

"Since life is the high road to eternity, and ſince men can "travel it but once, (ſay they) how cautious ſhould our de- "ſcendants be in their progreſs; but, we have travelled this "awful path before you; we leave you the fruits of our ex- "perience, and what we have obtained with difficulty, we "bequeath to you gratuitouſly. Theſe are the rules of con- "duct, approved by experience and matured by time; Pro- "vidence has given more unity to truth, and rendered it leſs "difficult to attain what is excellent, than the bulk of man- "kind are diſpoſed to allow: beware, then, of thoſe falla- "cies which caprice and humour daily engender; take coun- "ſel of time, and thus expand your knowledge, by thoſe "lights which preceded *your* exiſtence."

But while we thus admire our conſtitution, let us remember that the true reform is the reducing it to its original purity:—every human inſtitution wants repair; and every ſyſtem may generate abuſes.

Without deſtroying the ſtem, we may prune the redundant branches, and thus render it more healthful and vigorous.

To extirpate the ivy, is to preſerve the oak; to prevent abuſes, and weed away uſeleſs and burthenſome excreſcences, is to preſerve, in its priſtine and original health and vigour, our excellent and invaluable conſtitution. *

* It may not be improper to note, particularly in this place, that it was neceſſary to point in a different manner, and to leave out ſome unneceſſary words; to render the 95th and 98th orders tolerably intelligible: clouded as they have been, with legal tautology—framed and obſcured by redundant phraſeology, in the above compilation.

The firſt, or 95th order, might have been far more clear, if it had been ſhortly framed thus: "That five years, and fourteen days, were "the longeſt term allowed for an appeal, from the ſentence of any "court; but that the duration of alienation of mind, perſonal abſence, "and diſability from minority, or impriſonment; was to be eſtimated "and added to the aforeſaid period."

The ſenſe of the ſecond, or 98th order, might be comprized alſo in few words, "That where cauſes were adjourned by the Houſe to "another ſeſſion, they ſhould be heard and continued according to "priority of preſentation, on *cauſe days*; or on Wedneſdays, Fridays, "and Mondays.

" That if *only* the Counſel of the perſon complaining ſhould ap-
" pear, the cauſe ſhould be heard *then* only in part; and the reſt of
" the merits another day: but that if the Counſel of neither of the
" parties concerned in an appeal appeared—in ſuch caſe, the appeal
" ſhould be diſmiſſed: though renewable—as occaſion might re-
" quire."

It is to be alſo particularly obſerved, that where the neglect has been in the Counſel, and not in the Client; there have been inſtances in Parliament, in both kingdoms, of ſevere cenſures againſt the Advocates, who have not attended their duty, and appeared at the bar, when called upon, to plead at an appointed day.

THE

THE

PEDIGREE

OF THE

MARQUIS CORNWALLIS.

Traced from King EDWARD the Firſt, through the Duke of ORMOND.

CHAP. IV.

THE following pedigree was compiled from the caſe of the Earl of Ormond, accurately ſtated, proved, and admitted, in 1791, in the Houſe of Lords of Ireland.

Of all the ſtatements of this ſort that have appeared, this, perhaps, is the beſt authenticated and the moſt ſatisfactory.

If nobility, if noble deſcent, be valuable additions, or deſirable advantages, the public muſt be pleaſed with a pedigree, commencing with our Engliſh Juſtinian, the firſt Edward; and terminating with the late Governor General of the Eaſt Indies.

The eulogium that the Roman poet beſtows upon his patron,

> ——— Atavis edite regibus;
> Oh! Et Præſidium, & dulce decus Meum!

may, with peculiar propriety, be applied to that diſtinguiſhed character, in whom the public hopes and the well-grounded confidence of his country repoſe, in the preſent arduous conteſt; at a criſis unparalleled in the annals of mankind.

This

This abridgment was compiled by the author the 27th of March, 1791; it was inſerted in the Public Advertiſer a few days afterwards; and it is ſubjoined, as a curious article and a valuable addition, to this ſhort, but uſeful, intereſting, and laborious compilation.

JAMES BUTLER was created Earl of Ormond in 1327, the ſecond year of Edward the Third: he married Elinor, daughter of Bohun, Earl of Hereford, by Elizabeth, ſeventh daughter of King *Edward the Firſt.*

He was ſucceeded by his ſon, (by the ſaid Elinor); James, the ſecond Earl of Ormond, in 1338, Lord Juſtice of Ireland: who had iſſue a ſon of the ſame name, who became third Earl of Ormond, and was Lord Deputy of Ireland.

His ſon, of the ſame name, was the fourth Earl of Ormond, in 1405, and Lord Deputy in the reigns of Henry the Fourth and of Henry the Fifth.

He was ſucceeded by a ſon, James, the fifth Earl of his name, who was created Earl of Wiltſhire in England, and K. G. and was Deputy of Ireland for ten years, in the reign of Henry the Sixth: by his dying without iſſue in 1515, the Engliſh title was extinct; but his brother Thomas inherited, as ſixth Earl of Ormond.

Upon his death without male iſſue, his couſin Pierce Butler became the ſeventh earl, who was deſcended from James, the third Earl of Ormond.

King Henry the Eighth, wiſhing to gratify Sir Thomas Bullen, the father of his beloved Queen, (who deſcended, by her mother, from Thomas, the ſixth Earl of Ormond) prevailed upon Pierce Butler to reſign this title in his favour, and he was created Earl of Oſſory; but, (upon the death of Sir Thomas Bullen) his eldeſt ſon James reſumed the title, and became the eighth Earl of Ormond; which title was confirmed to him, by an Iriſh Act of Parliament, in the 35th year of Henry the Eighth.

James, the eighth Earl of Ormond, was ſucceeded, in 1536, by his ſon Thomas, the ninth earl; who dying in 1614, was ſucceeded by his nephew, Walter, the tenth Earl of Ormond.

Lord Thurles, his eldeſt ſon, having died before his father Walter, he was ſucceeded by his grandſon James, the eleventh earl; ſo celebrated afterwards as Marquis, and Duke of Ormond, for his loyalty, his virtues, and his patriotiſm.

The

The eleventh earl, and firſt Duke of Ormond, had two ſons; the Earl of Oſſory, father of the laſt Duke of Ormond; and the Earl of Arran, who left a daughter, an heireſs.

This heireſs, Lady Charlotte Butler, daughter and ſole heireſs of Richard, Earl of Arran, and ſecond ſon to the firſt Duke of Ormond, was married the firſt of June, 1699, to Charles Lord Cornwallis.

Charles, their ſon, born the 29th of March, 1700, was created an Engliſh earl, the 30th of Dec. 1753, and died in 1762; leaving, amongſt other iſſue, the preſent Marquis Cornwallis, born in 1737-8, who, upon the extinction of the deſcendants of the Earl of Oſſory, in the perſons of the laſt Duke of Ormond, in 1745, of the Earl of Arran, his brother, in 1758, and of their ſiſter, the Lady Emilia Butler, became the only repreſentative, in the female line, of the firſt Duke of Ormond.

☞ From a paſſage in Sir Robert Southwell's Narrative, Iriſh Parliamentary Hiſtory, v. i. p. 193, there is reaſon to ſuppoſe that Theobald Fitzwalter, Lord Butler of Ireland, (whence the family name is derived) was Lord of Carrick, in 1247, the 31ſt of Henry the Third.

This probably was a barony in fee, and would deſcend, if ſuch remote antiquity could admit of accurate evidence, to the Marquis Cornwallis, as *heir* general, and *lineal* deſcendant of the Earl of Arran, ſecond ſon of the firſt Duke of Ormond.

Of this title of Carrick, the late Lord Arran, who died in 1758-9, was ſo tenacious, that when Viſcount Ikerrin was created an Earl, and had aſſumed that title without his knowledge or conſent, (which he conſidered as the firſt title of his family) he left him out of the entail to his immenſe property, a ſucceſſion which was ſhortly after, a very probable contingency.

Of the earldom of Carrick, a patent is preſerved among the Ormond papers, in the original writing of that time, dated the ninth year of Edward the Second; and it is of the ſame year, but a *few* months older than the earldom of Kildare.

Mr. Carte, the hiſtorian, preſented a memorial to the late Earl of Arran, in 1751, upon Lord Ikerrin's aſſuming that title, which is alſo preſerved in the ſame collection.

The Ormond papers, (which the author has ſeen) arranged as they were by the laſt Duke of Ormond, in 1697, are in a vaulted room, called the Evidence Chamber, in the family manſion at Kilkenny; and they form the moſt curious collection of ſtate papers, records, and hiſtorical materials, that are, perhaps, in the poſſeſſion of any private family in theſe kingdoms.

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INDEX, OR CALANDER,*

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ERRATA.

In Note, p. 44, for 1784, read 1785.

The remarkable caſe of the Counteſs Dowager of Ely, in page 82, where the proviſions of her huſband's will were ſet aſide (by a private bill), by which ſhe inherited Ely Houſe in Dublin, in conſequence of ſix months reſidence in Ireland, ſhould be placed on the Iriſh column, or in the exterior, or left margin.

In page 95, for Earl of *Grandeſon*, read *Grandiſon*.

In page 99, in the title of Chap. III. for *7th order*, read *71ſt order*.

N. B. The orders relative to Peers, alluded to in the Preliminary, p. 60, recording and demonſtrating their genealogies before they take their ſeats, (which have not yet been entered upon the Iriſh roll of orders, and are only reſolutions in Ireland) originated in 1767, from the late Earl of Egmont; grounded upon the celebrated caſe (which was then ſo much ſpoken of) of Lord Willoughby de Parham.

*** It is to be ſpecially and particularly noted—that this Table, or Calander, comprizing, in this ſhort ſpace, all the foregoing rules, is an advantage which the collection printed the 11th of February, 1790, in Ireland, has over the tranſcript in manuſcript, from the roll of the ſtanding orders, in England.

This Calandar was digeſted and corrected by a Sub-Committee, in Nov. 1783; of which the Archbiſhop of Caſhell and the Author were the active members.

As the rules of the Britiſh and Iriſh Peers are *now* nearly ſimilar; it may be ſaid to contain the ſubſtance of the ſtanding orders, not only in Ireland, but alſo in Great Britain.